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CURRENT TOPICS

Mr. T. W. Fry

IT is instructive to look back on the career of a great stipendiary magistrate, such as Mr. T. W. FRY, who died on 1st June, at the age of seventy-nine, for it affords an example of the heights of public respect that a truly learned and able magistrate can attain. He was appointed a magistrate in 1908 and a metropolitan police magistrate in 1920 and remained in office until beyond his retiring age, in 1941. After a brilliant university career, having been an exhibitioner of New College, Oxford, and the holder of a first-class honours degree in history, he was called to the Bar by the Inner Temple in 1893. For the fifteen years before his appointment as a stipendiary magistrate at Middlesbrough he practised on the North-Eastern Circuit. As a metropolitan police magistrate he sat first at Greenwich and Woolwich and for a short time at Tower Bridge, and later at Bow Street. Many will recall with pleasure the administration of justice in his court and the dignity, learning and courtesy that went with it. His standards were the highest and in whatever he did he exerted the full strength of his great knowledge and judgment.

French Lawyers

OVER forty French lawyers were our guests during the week commencing 2nd June, and solicitors and barristers joined in making them welcome. The occasion was a conference at The Law Society's Hall, organised by The Law Society jointly with the General Council of the Bar, the Inns of Court, and the Society of Public Teachers of Law. The opening speeches are reported elsewhere in this issue, but we may perhaps note here that both Mr. DOUGLAS GARRETT and the Lord Chancellor commented on the fact that the delegates of the two countries had come together spontaneously and not at the bidding, or even suggestion, of any government or official authority. It was all the better for that, LORD JOWITT said. At the present time he was very much concerned with the reform of our system of law in order that, while we retained its essential principles, we might do something to bring its cost within the reach of ordinary men. He did not doubt that lawyers in this country would derive great advantage from discussions with their French colleagues on this matter. In reply MAÎTRE MAURICE MEHRMANN, Président de la Chambre Nationale des Avoués près les Tribunaux de Première Instance, said that Britain and France were pillars of civilisation and if one fell the balance was lost and the other must also fall.

Solicitors as Stipendiaries

A VALUED correspondent, expanding our suggestion in a previous "Current Topic" (*ante*, p. 269), that solicitors might be good stipendiary magistrates and barristers might be compensated by being qualified for appointment as county court registrars, states: "Solicitors' training, study and examinations in law are not less arduous and exacting than barristers', and their very difference in function (the primary sifting of law and fact in direct contact with laymen, as contrasted with counsel's secondary sifting on paper instructions from solicitors) should result in solicitors being better fitted to preside in courts of summary jurisdiction where parties are usually not represented. County court registrars (who are drawn only from solicitors—barristers cannot, as you suggest, now be appointed) dispose not only of the great bulk of all civil litigation, in county courts and as district registrars, but in normal times actually try many more common law actions (differing only in magnitude) than the King's Bench Division judges (see "Civil Statistics," e.g., in 1938, at p. 16, tried in King's Bench Division, 1,038 actions; at p. 40, tried by county court registrars, 11,407 actions). Several county court registrars have for some years been deputy chairmen of quarter sessions, chairmen of large benches, and members of appeal committees, and occasionally one finds other solicitors holding such office." These arguments are of great weight. If there is an answer to them it should be put forward promptly, but if there is no answer, they should receive the attention of the Royal Commission on Justices of the Peace.

Worshipful Company of Solicitors

THE report of the Court of Assistants of the Worshipful Company of Solicitors of the City of London for the year 1946–47 records that for the third year in succession there has been a very satisfactory increase in the membership of the company, which has risen from 235 in 1944, 248 in 1945 and 282 in 1946 and is now 336. During the year the Companies Bill was considered by the Professional Purposes Committee, which decided to take no steps until the Bill had emerged from the House of Lords. Subsequently, substantial amendments were made in that House, and the Bill, as amended, is under further consideration by the committee. The court has agreed to a modification of the regulations for the Company's Prize, which will in future be awarded on the results of the compulsory papers Nos. 4 and 5 at the Final Examination. The qualifying radius for this, and the Grotius Prize and the Alfred Syrett Prize, has been increased to one mile from the Bank of England, to correspond with the provisions in the Company's charter. The Company has also assumed financial responsibility for the Grotius Prize, which, although given in the Company's name, was provided by the late Past Master Fraser in his lifetime. A resolution was passed welcoming the

note in the *Law Society's Gazette* on the undesirability of using the tables in the Succession Duty Act for valuing reversions. The attention of The Law Society was drawn to several circulars received from building societies inviting solicitors to become agents on reduced remuneration. The Law Society was approached with a view to an amendment in the rules to Sched. I, which preclude a scale charge on the sale of leasehold property where the only title deduced is the lease itself. A reply was received that the point has been noted for consideration when other questions relating to solicitors' remuneration are under consideration. The opportunity was taken of the issue by The Law Society of a questionnaire on earnings, overhead expenses, etc., to stress the urgency of a revision of the whole system of solicitors' charges, by which (amongst other things) remuneration should be fixed by the governing body of the profession, and not by a statutory committee composed of members, the majority of whom were not solicitors. Complaint of very serious delays in Local Land Charges searches was made to the L.C.C., and there is a slight improvement to report, which the court is assured should be progressive. Support has been given to the opposition of the City Corporation to the proposal to deprive the corporation of its town planning powers. The third annual general meeting of the liverymen and freemen is to be held at Tallow Chandlers' Hall, 4, Dowgate Hill, E.C.4, on 18th June, at 4.30 p.m., and we hope to report this fully in a future issue.

Searches for Land Charges

THE Council of The Law Society have settled, with counsel's assistance, an opinion relating to the duty of a solicitor acting for a purchaser of land to search the Land Charges Register before exchanging contracts. An extract from the opinion, which is to be issued in due course in the form of an insertion in the *Law Society's Digest*, 1937, is published in the current issue of the *Law Society's Gazette*. It states that a purchaser's solicitor would be exposing his client to a risk if he omitted before contract to search for local land charges, or to search for other land charges against all persons who, to the knowledge of the purchaser or his solicitor, gained in that transaction, are, or have been at any time since 1925, estate owners of the property, as the purchaser may be subject to any registered charge or incumbrance which is not removable or redeemable by the vendor. The opinion adds that in view of the observations of Eve, J., in *Re Forsey and Hollebone's Contract* [1927] 2 Ch. 379, at p. 387, the fact that the vendor may contract to sell "free from incumbrances" must on this point be treated as immaterial. "It would appear," the opinion continues, "that the purchaser's having notice of an incumbrance does not preclude him from suing the vendor after completion on the covenants for title, unless these have been so modified as to except the incumbrance in question (*Page* v. *Midland Railway Co.* [1894] 1 Ch. 11)." There is no authority on the point, but it is thought that there is no obligation on a purchaser to ascertain who have been estate owners of the property from time to time, so as to enable searches to be made against such persons for land charges. Finally, it is stated that the Council are advised that *Re Forsey and Hollebone's Contract* applies only to incumbrances not removable or redeemable by the vendor.

Professional Etiquette

THE *Law Institute Journal* of the Law Institute of Victoria and the Queensland Law Society has continued, in its issue of 1st March, 1947, its beneficent practice of publishing in full the papers and lectures delivered to the Professional Conduct Classes held under the auspices of those societies. The subject of professional etiquette has not been studied or taught in this country with anything like the thoroughness that has characterised Australian studies, and the lecture of Mr. J. V. BARRY, K.C., published in the issue of 1st March, is a model of accuracy, of learning and of wisdom. One of the quotations which he cited will be recalled with pride, that of Lord Reading, L.C.J., in the trial of Sir Roger Casement, in acknowledging the court's indebtedness to the skill, courage, eloquence and learning of Mr. Serjeant Sullivan: "It is the proud privilege of the Bar of England that it is ready to come into court and to defend a person accused, however grave the charge may be." The tradition of the English and Scottish Bars, Mr. Barry said, was that unless there were very special circumstances justifying a refusal, a barrister was bound to accept, if his professional engagements permitted, any brief to appear in the courts in which he practised, if a proper fee were offered. Another point of importance to solicitor as well as to barrister advocates in the courts, is one which it is not always so easy to follow rigidly. Mr. Barry said that despite the view of the late Joshua Williams that it was no part of an advocate's duty to reveal a decision adverse to his client's case, the decision of Lord Birkenhead in *Glebe Sugar Co.* v. *Greenock Harbour Trustees* [1921] S.C. (H.L.) 72, was that it was the duty of counsel to place all authorities before the court, "quite irrespective of whether or not the particular authority assists the party who is aware of it."

Solicitors as Farmers

A RATHER surprising discussion on the capacity of the average solicitor to manage a farm followed the motion in the Commons on 4th June by Mr. JOYNSON-HICKS to include a sub-clause in the Agriculture Bill. The clause affected was that providing for dispossession on the grounds of bad estate management, and the proposed sub-clause provided that on such an event occurring the Minister should afford certain persons, among them the trustees of the settlement in the case of settled land, the opportunity of assuming the management of the land. The Solicitor-General thought that nothing was to be gained by transferring land from an inefficient owner to a person as to whose efficiency there was no kind of guarantee. The trustee could be a solicitor, who, having an office in some town and knowing absolutely nothing about agriculture, would be quite unsuitable as a manager. Lt.-Cmdr. BRAITHWAITE thought that the Solicitor-General was a little unjust to the learned profession of which he was so great an ornament. There had been many cases in the past in which this sort of thing had happened, and of course a firm of solicitors did not proceed to do the work; they put in someone who was efficient to manage the estate. Captain CROOKSHANK asked, even if the assumption that the trustees would not be efficient was accepted, what guarantee had the Minister that the Land Commission would be any better? This is a point which will be greatly appreciated by solicitors in agricultural areas. One of the dangers of over-centralisation is that the skill and knowledge that serve local industries on the spot and that have been built up by generations of experience will be dispensed with in favour of the new service. A solicitor is not necessarily a good farmer, but few know better than a solicitor practising in a farming area who are, and who are not, good farmers.

Allied Courts

FOR many reasons the establishment in this country of foreign courts during the war was a momentous event in history as well as in the development of law. The passing of the Allied Forces Maritime Courts Act, 1941, has now been appropriately commemorated in panels unveiled by the Lord Chancellor on 2nd June in the Middlesex Guildhall, Westminster. The courts, LORD JOWITT recalled at the unveiling ceremony, were courts of foreign jurisdiction, staffed by foreign judges from Belgium, the Netherlands, Poland, Greece and Norway. Their thoughts that day, his lordship said, were directed to the mutual interdependence and comradeship in the fight for the freedom of the world. He expressed a wish that that friendship should continue to grow and gain strength in overcoming the many difficulties which confront the world to-day. The Foreign Secretary also spoke, and looked forward to the time when the great principle would be re-established throughout the world that law was really superior to the executive and when such things as police states would be entirely obliterated. The three panels occupy together about 11 ft. of wall space, and show the first authorisation by the British Parliament of the courts, and their

purpose, the arms of the five countries and the signatures of their kings, prime ministers and leading representatives. Those who were privileged to see the allied maritime courts at work were impressed with their dignity, efficiency and fairness. It is fitting that the appreciation by lawyers and others of the fact that law and justice are not the exclusive heritage of the people of this island, but are the right of free men everywhere, should be permanently recorded.

Soviet Law

A TREND in Soviet law which will be of great interest to lawyers in this country has been shown in two decrees issued on 5th June by the Supreme Soviet in Moscow. The decrees are concerned with punishments, in the first case for theft or robbery from private individuals, and secondly for theft or embezzlement of State property. Robbery with grievous bodily harm, which under the 1922 Code might incur the death penalty, is now to be punished by "confinement in a reformatory labour camp for fifteen to twenty years, with a confiscation of property." Embezzlement of State property, which also incurred the death penalty, brings the culprit into a labour camp for seven to ten years for the first offence and for ten to twenty-five years for the second offence. Anyone failing to report a private robbery incurs "loss of freedom" (imprisonment) for one to two years or banishment for four to five years. Failure to report embezzlement of State property is punishable by loss of freedom for two to three years or banishment for five to seven years. The maximum sentences to a labour camp for simple thefts or robberies are generally for a longer period than those laid down in the 1922 Code, showing the authorities' determination to suppress lawlessness after the war and to ensure, in accordance with one of the main trends of the Soviet society, greater respect for private property. Believing, as many people do in this country, that the institution of private property is, like that of the family, at the basis of the constitution of a stable society, we find it interesting to have this view confirmed from a source in which historical events and developments have been so widely divergent from our own.

Control of Civil Building

IN circular 95/47, issued by the Ministry of Health on 2nd June, 1947, it is stated that Forms CL.1136A (Application for building licence and/or materials), and CL.1136B (Application for building licence for small dwellings) have been reviewed in consultation with the Ministry of Works and the Board of Trade, and various changes have been introduced to simplify the procedure to be followed by applicants. The principal change is that both forms will in future incorporate the application for a timber licence. It is important that the applicant should state on Form CL.1136B any balance of timber needed to complete the work, and it will assist the principal housing officer if the local authority would see that this information is furnished in all cases where it appears likely that further timber will be required. The circular states that these changes make it necessary to amend the instructions as to the issue of civil building licences. The building licence should be made out in the name of the building owner (i.e., the person paying the cost of the work), and care should be taken that it is properly completed. The licence should be sent to the building owner, but if the application is signed by another person on his behalf (e.g., architect or builder), to the building owner care of that person. Duplicate copies of the licence need no longer be sent to the builder. If timber is required, a copy of the licence should be sent with the application form to the Principal Housing Officer of the Ministry of Health, or, where the cost of the work is £100 or less, to the Timber Control Area Officer. An exact copy of the licence should be retained in the local authority's file and a copy should be sent to the Regional Licensing Officer of the Ministry of Works in the usual way.

TOWN AND COUNTRY PLANNING BILL—VIII

THIS is intended to be the final article in this series on the Bill, although compensation for compulsory acquisition of land will be dealt with later as a subject on its own. Having reviewed the most important features of the Bill affecting property owners, it remains to weigh up and in part recapitulate its immediate effect on practice.

The Minister, in moving the third reading of the Bill in the House of Commons, said: "There will be, after the appointed day, and there may be to-day in anticipation, considerable changes in the value of land, particularly where development value is involved. It is very important that prospective purchasers, between now and the appointed day, should take great care to be properly advised on the value of their land, in view of these impending changes, otherwise they may find themselves paying for the development value of land of which they may not hereafter be in a position to get the benefit. I feel that it is very important that this advice should go out to prospective purchasers, because no one wishes that, in consequence of these changes, innocent parties should suffer."

The Minister has expressed the hope that the appointed day will be early in 1948, but no official intimation as to its date has been given. The 1st January or the 1st April, 1948, seem to be two possible dates.

In addition to the uncertainty as to the date of the appointed day, there are two other uncertainties which make the giving of advice difficult, namely, the details of the Treasury scheme for distributing the £300 millions allotted for the depreciation of land values and the regulations to be made prescribing principles with regard to the determination of development charges, and particularly any regulation which may be made with regard to the percentage of development value to be charged as development charge. Subject to this, points to which particular attention should be given before the appointed day are set out below.

There are substantially two classes of transaction concerned and two principal matters to watch, and although reference is made to vendors and purchasers prospective mortgagees are, of course, also affected by changes in property values, and should take the same precautions as prospective purchasers. The two classes of transaction are:—

(1) Sale and purchase of property for its existing use in its existing state; and

(2) Sale and purchase of property for development as defined in the Bill.

The two principal matters to watch are:—

(1) The safeguarding of one's client from financial loss; and

(2) The ensuring, so far as possible, that he will be able to use the property for the purpose in mind.

Taking first the question of financial loss in the first class of transaction, there should be no great difficulty in advising a purchaser because he is only likely to suffer loss—

(*a*) if, although he intends to use the property for its existing use in its existing state, he has in fact paid in his purchase price an element for development value, e.g., he may buy a house for his own occupation in a neighbourhood where business use is permitted, or a farm near a town. He may find on resale that he is unable to recoup himself any part of the price attributable to additional value for business or building purposes although he will have had the right to claim for a depreciation payment;

(*b*) he may lose any part of the purchase price attributable to vacant possession if his land is subsequently compulsorily acquired, as for the purpose of calculating the compensation payable the land, unless agricultural property, will be deemed to be subject to a lease expiring on the 1st January, 1954.

The question of financial loss in the second class of transaction is very much more difficult to advise on.

Generally speaking, the advantage to a prospective purchaser would seem to lie in deferring any purchase until after the appointed day. If he buys before he will have paid in his purchase price existing use value plus development value, the development value will pass to the State at the appointed day, and in return he seems likely to receive for loss of development value only a small proportion (if any) of that value, and when he develops he will have to pay a development charge. If he defers until after the appointed day he will in theory pay only the existing use value plus the development charge. This applies whether or not a planning permission for the development has been granted before the appointed day, except where the development consists of the erection or alteration of buildings which have been begun but not completed before the appointed day, in which case the development value will not be lost. The foregoing is, however, subject to the special case of "ripe" land.

A purchaser even of ripe land must, however, walk warily. Ripe land is land the development value of which is wholly or mainly attributable on the appointed day to development, being development consisting of the erection, extension or alteration of buildings, for which planning permission is granted, and in respect of which development a building contract still in force on the appointed day, byelaw submission or building application has been made within ten years before 1st January, 1947. In such a case the Minister may direct that no claim for depreciation or payment of development charge be made, i.e., the situation financially is as before the Bill. It will be noted that it is not required that the byelaw submission or building application need have been approved within the ten years. The relevant clause is so framed, however, that if the purchaser is to be safe he must either have planning permission to erect his buildings before the appointed day and have started his buildings before that day (it seems that if he is developing a building estate he may have to apply for a fresh permission for any houses not actually started) or obtain a planning permission after the appointed day which must remain unrevoked up to the completion of his buildings. If the permission is revoked before he has completed his buildings, or planning permission is not granted, the purchaser will lose such part of the price he has paid as represents development value except for such sum as he may recover on a claim for depreciation. Even if the land is ripe, there is, therefore, every justification for deferring its purchase unless the purchaser can get his buildings under way before the appointed day.

The fact that land may be in the "near ripe" category mentioned at 91 SOL. J. 200 will not help a purchaser, since the special treatment of land in this category, as so far announced, seems to be limited to the persons owning the land at the date of publication of the Bill.

Conversely, it would seem to be advantageous to owners of land having development value to sell before the appointed day, since they may be able to obtain existing use value plus development value; whereas if they wait until after the day, they will in theory only receive existing use value plus a payment in hardship cases out of the £300 millions.

We now turn to the second principal matter to watch. In the first class of transaction where buildings are involved, it will be necessary to find out whether they comply with existing planning law and, as far as possible, what their future will be. In the second class it will be necessary to find out how the land is at present dealt with in any operative planning scheme or what interim development permissions have been granted and again, as far as possible, what its future is to be.

Under the present law resolutions to prepare planning schemes and operative schemes are registered as local land charges, but these entries give little information except the date when planning control came into force. The detailed effect of schemes or interim permissions on individual properties is not required to be registered even where conditions are imposed binding on successive owners; although owing to the repeals to be effected by the new Bill in the Schedule to the Law of Property (Amendment) Act, 1926, it appears that conditional planning permissions granted after the appointed day, and any conditional permissions granted before that day under a planning scheme or interim development order, will appear as an entry in the register after the appointed day. The vendor should, therefore, be asked in the enquiries on the draft contract to supply particulars of any planning scheme and copies of any interim development permissions and, in case ripe land is involved, details of any building contract, byelaw submission or building application made within ten years before 7th January, 1947.

Where an interim development permission under existing law has been granted but the development authorised has not yet commenced, the purchaser must note—

(*a*) whether, as is usual, any time limit was imposed within which the development must be carried out;

(*b*) that if the permission was granted before 21st July, 1943, it will in any case be of no effect after the appointed day; and

(*c*) that the permission may be revoked either before the appointed day under s. 4 of the Town and Country Planning (Interim Development) Act, 1943, or afterwards under the provisions of the new Bill. Planning ideas have changed rapidly in recent years and revocations are not uncommon.

In this connection attention is drawn to a sentence in the recently published memorandum issued by the Ministry of Town and Country Planning on the Report of the Advisory Committee for London Regional Planning, in which the Ministry state: "In future authorities should adhere to the Greater London Plan, as modified by the Advisory Committee's Report, subject to the comments contained in this memorandum, and should review their planning schemes, proposals and consents in this light." Therefore, there is every probability that many consents which expire will not be renewed, and that others may be revoked. While this sentence applies to the Greater London Plan, there are many similar plans devised for other places.

Information with regard to existing schemes and permissions should be obtained from the vendor in the first place, the purchaser satisfying himself that any buildings comply, as this saves work to the local authorities in turning up their records; but it is suggested that the appropriate local authority be asked to confirm that the permissions quoted by the vendor are still of full force and effect and have not been revoked.

So much for permissions already granted. What of the future? The answer to this question is important in the case of both developed and undeveloped property, but there is great difficulty in answering it.

It is suggested that an answer cannot reasonably be expected from a local authority as to other than present facts, and the "List of Additional Enquiries" to accompany searches to local authorities approved by The Law Society will be seen to agree with this. Therefore, while it is proper to ask a local authority how any planning proposals approved by them or published affect the property, a question asking how the property will be treated in any future planning scheme or whether a proposed use of the property will be approved may well not be answered, and the answer would in effect be only the idea of a particular officer as to what might be likely to happen. Such a question may place the vendor, the purchaser and the authority in difficulties, the vendor because he may lose his sale on account of information subsequently not adopted, the purchaser because it is really no protection to him, and the authority because it is an attempt to commit it morally to a course of action which it may not approve. The safest possible way in which to protect a purchaser is to arrange for the vendor to obtain a permission before contract or to enter into a contract conditional on the purchaser's being able to obtain the necessary permission himself. The foregoing is directed to formal enquiries. Most planning officers will probably readily help initially in guiding prospective purchasers as to the

locality where any particular activity is likely to be permitted, but after this it is for the purchaser's advisers to take the action indicated when proceeding with the draft contract.

There are numerous published planning proposals in existence which have no statutory effect, being really only consultants' advisory plans, but which are of great practical value, as many of their details will no doubt eventually find their place in statutory plans (especially with the greatly increased powers and financial aid given in the Bill). Perhaps the best known are the Greater London Plan, the County of London Plan and the recently published City of London Plan, but there are a large number of others affecting such places as Merseyside, Exeter, Hull, Worcester, Guildford, Manchester, Norwich, Plymouth, Chelmsford and Middlesbrough. These are only examples. Similarly, in many cases authorities have themselves local outline plans to which they work. Local practitioners will no doubt make themselves well acquainted with any such plans affecting their own locality; but where they are acting in respect of property outside it, it is suggested that an additional enquiry on the following lines might be put to the appropriate authority:—

(*a*) Has any reconstruction or other plan, advisory or otherwise, which affects or may affect the property, been prepared by any consultant or other person and published?

(*b*) Has any plan which affects or may affect the property been adopted by the council or any joint planning committee as an outline or working plan?

(*c*) Please state the nature and title of any such plans and how the property is or may be affected by them.

The answer to these questions will help the purchaser to calculate his risks, but it must be emphasised that an advisory plan may not be adopted in whole or in part. As will have been seen, the Greater London Plan has considerable force and, for example, a purchaser who finds land he wishes to buy for building development shown in it as part of the Metropolitan Green Belt may think it prudent to proceed no further without endeavouring to obtain an interim development permission.

Although county councils will become local planning authorities as from the commencement of the new Act, interim development powers and, indeed, other planning powers under existing law will remain with the authorities who exercise them at present up to the appointed day, and, in view of this, it should be unnecessary to trouble such county councils as are not already planning authorities with additional enquiries on planning before the appointed day. In fact, they will not, at any rate in the early stages, have the information to enable them to reply. If, however, the transaction concerned is a major one which may materially affect any future planning of the locality, it might be advisable to endeavour to secure the concurrence of the county council concerned in any decisions already given by the district council. In the case of any major decisions given after the commencement of the Act, there will in practice no doubt have been consultation between the two before the decision was given.

One further practical point, which has already been mentioned, but which is referred to again for the sake of completeness, is that, in settling any draft contract which may not be completed until after the appointed day, provision must be made for an assignment to the purchaser of the right to receive any payment for depreciation out of the £300 millions if it is intended that the purchaser should receive it. In the absence of express assignment, it will be the property of the vendor.

DIVORCE LAW AND PRACTICE

SECURED MAINTENANCE

THERE have been one or two cases recently which bear upon the subject of secured maintenance and the power of the court to vary an order for secured maintenance when once it has been made. It may therefore be helpful shortly to review the position, which is of considerable importance to the parties. First, it will be remembered that the basis of the jurisdiction is to be found in s. 190 of the Supreme Court of Judicature (Consolidation) Act, 1925, as amended by s. 14 of the Administration of Justice (Miscellaneous Provisions) Act, 1938, and the scope of s. 190 has been stated recently by the Master of the Rolls in *Mills* v. *Mills* [1940] P. 124, at p. 129, as follows: "Under s. 190 of the Act of 1925, for the present purpose there are two forms of order which the court is empowered to make. One is an order securing to the wife a gross or annual sum of money. That is under subs. (1) of s. 190. The other is an order under subs. (2) for the payment 'during the joint lives of the husband and wife' of monthly or weekly sums. An order under that subsection may be made either in addition to or instead of an order under subs. (1). Under the Act of 1925, there was power in the court in case of an increase of the means of the husband to vary any order made under subs. (2) of s. 190 for the payment of a periodical sum. That particular proviso has now gone, by reason of s. 14 of the amending Act of 1938, under which an order made under subs. (2) of s. 190 of the Act of 1925 can be discharged or varied or suspended." The distinction between the two subsections of s. 190 has been stated by Hill, J., in *Shearn* v. *Shearn* [1931] P. 1, at p. 4, thus: "The two orders are essentially different. The order under s. 190, subs. (1), is not an order to make periodical payments and secure the payments; it is an order to secure and nothing else. Under it the only obligation of the husband is to provide the security; having done that, he is under no further liability. He enters into no covenant to pay and never becomes a debtor in respect of the payments. The wife has the benefit of the security and must look to it alone; if it ceases to yield the expected income she cannot call upon the husband to make good the deficiency . . . The order under subs. (2) is not an order to secure—it is an order to make periodical payments. There is no power under subs. (2) to order that these payments be secured. If the husband's means increase, the periodical payments can be increased. But, however much his ability to secure increases, he cannot under subs. (2) be ordered to secure."

The question then arose as to whether, when an order has been made to secure to a wife a gross or annual sum of money, the court has power to vary the order, and it was held in *Blyth* v. *Blyth* [1943] P. 15, that there was no such power even where there was consent on the part of both spouses to such an order being made. There, in 1932, a maintenance order had been made for payment to the wife during her life of a yearly sum, and a deed securing the payment had been duly executed by the husband. In 1942 there was an agreement between the parties by which the wife accepted a lump sum from the husband in place of the yearly payments, conditional upon an order being obtained rescinding the maintenance order, and an application was made by the husband for an order rescinding the maintenance order and for the approval by the court of the deed of compromise giving effect to this agreement. Henn Collins, J., however, dismissed the application and his order was confirmed by the Court of Appeal. In his judgment agreeing that there was no power to vary the order, Goddard, L.J., as he then was, stated that unless a court is given statutory power to rescind its own order it could not do so, but that if either party could show that there was something wrong with the order or could show that it ought not to have been made, the proper remedy was to appeal; again, there might be a power to vary if the court had been misled into making the order, although even then, if it had been drawn up, the aggrieved party must as a rule go to the Court of Appeal unless indeed there had been an irregularity in procedure or the order for some reason could be treated as a nullity, which was not the case before him. With regard to the Act of 1938, referred to above, the learned

lord justice pointed out that subs. (1) of s. 14 gave the court power to "discharge or vary" certain orders made by it, but not one made for securing the payment of an annual sum of money for maintenance.

More recently, in *Fraser* v. *Fraser* (1947), 63 T.L.R. 198, a similar question arose as to the power to vary such an order where the order contained words reserving liberty to apply as to the nature of the security. There a registrar had made an order under subs. (1), after a wife's decree for divorce had been made absolute, requiring the husband to secure to his wife an annual sum based on his capital in England, and he had added in his order the words "liberty to apply as to the nature of the security." The husband appealed against this order, but the appeal was dismissed by Byrne, J., and by the Court of Appeal. It appeared that the husband was not possessed of any capital in England but that, being a beneficiary under the wills of his parents, there was a certain sum for his benefit which was being held by his lawyers in Edinburgh, and upon an application by the wife the registrar made a further order, varying the security so as to comprise this capital sum in Edinburgh. In allowing the husband's appeal, and holding that the registrar had no power to vary his original order, Willmer, J., followed the judgment in *Blyth's* case, holding that the fact that no deed had been executed in the case before him did not distinguish it from that decision. He then went on to consider the inclusion of the words reserving liberty to apply in the original order, it being argued that what the registrar had done did not amount to a variation of his previous order, but that having reserved liberty to apply as to the nature of the security in the original order he was free, on the subsequent summons, to make a further order specifying what securities should be comprised within the order. He did not, however, accept this argument, and although he doubted whether it was proper in an order of this character to reserve liberty to apply at all, which point was not before the Court of Appeal because it was not necessary for their decision on the hearing of the husband's previous appeal, he stated that it was not necessary for him to decide it then, since even if there was such a power, that provision must be read subject to the provisions of the order as a whole, and in particular subject to the provision that the order for payment was to be secured on the balance of the husband's capital then remaining in England. To make an order securing payment on capital not in England—which was what the registrar had done—amounted in his judgment to a variation of the original order which was outside the power of the court. The only obligation of the husband under the original order was to provide the security specified—that is, his capital then remaining in England. Having done that he was under no further liability; equally he was under no further liability if there was no capital then remaining in England. He could not be forced to provide other or different security—that is, capital not at the time of the order in England.

Although, therefore, the husband's appeal was allowed, it was pointed out that the wife's remedy was to apply for a variation of the unsecured payments, an order for such payments having also been included in the original order.

COMPANY LAW AND PRACTICE

THE CONTROL OF BORROWING ORDER, 1947—I

HITHERTO, as everyone dealing with companies is well aware, the raising of money by companies has been governed by reg. 6 of the Defence (Finance) Regulations and the orders made by the Treasury thereunder. The Treasury, however, has now made an order under the powers conferred on it by the Borrowing (Control and Guarantees) Act, 1946, and that order will come into operation next week, on the 16th June, and will then be the relevant provision dealing with the question of raising money by companies.

Although almost everyone who is concerned in the affairs of limited companies must be familiar with the ol dreg. 6 of the Defence (Finance) Regulations and the orders thereunder, it will be as well to refer to those provisions shortly before considering the provisions of the new order.

Ignoring references to the Isle of Man and Scotland, reg. 6 contained two main limbs: the first, which was contained in para. 1, made it necessary, unless you came within some exemption granted by the Treasury, to obtain the consent of the Treasury to any issue of capital, to any public offer for sale or to any renewal or postponement of the date of any security.

The second limb, which was contained in para. 2, prohibited, in cases not coming within exemptions granted by the Treasury, the issue of any prospectus or offer of sale which did not include a statement that the required consent had been obtained.

The rest of the regulation is mainly devoted to interpretation, and in particular the issue of any securities is, by para. 3, to be deemed to be an issue of capital, as is receiving any loan on the terms that it might be repaid by or out of the proceeds of such an issue. Further, by para. 5, securities were defined to include, as well as mortgages and charges, such things as shares, debentures, bills of exchange payable more than six months after date or after sight and promissory notes payable more than six months after date. This catalogue is not meant to be exhaustive but indicates the kind of things regarded as securities by the regulation.

The only other provision of the regulation remaining to be noted was that contained in para. 4, which provided that a security issued in contravention of the regulation was not to be invalid.

Continuing very briefly with the history of the old regulation, a series of exemptions was granted by the Treasury thereunder in the Capital Issues Exemptions Order, 1941. That order contained two classes of cases which were to be exempt from the provisions of reg. 6: firstly, any person was to be allowed to carry out any transaction of the kinds prohibited by the regulation so long as the total consideration involved in such transactions did not exceed £10,000 in any consecutive twelve months, and that limit was subsequently increased to £50,000 by the Capital Issues Exemptions Order, 1945; and secondly, a series of specific transactions was exempted regardless of the consideration involved. So far as companies are concerned the most important of those transactions were issues and offers for sale by certain building and industrial and provident societies, issues for reorganisation of capital not involving the subscription of any new money, and under certain circumstances issues by private companies to the vendors of undertakings bought by such companies. That then is at present the situation, except that the Capital Issues Exemptions Order, 1944, excluded from the benefit of the exemptions any company incorporated on or after the 1st December, 1944. Two small amendments to the original regulation had also been made by the Capital Issues Exemptions Order, 1942, and the present code governing these matters is therefore constituted by reg. 6 and the Exemptions Orders of 1941, 1942, 1944 and 1945.

The changes that will take place in this code next week are contained in three different orders. They are all dated the 21st May, 1947, and all come into operation on the 16th June, and the most convenient course is to consider first of all that dealing with reg. 6 of the Defence (Finance) Regulations.

The Supplies and Services (Transitional Powers) Order, 1947 (S.R. & O., 1947, No. 944) amends reg. 6 so far as England is concerned by providing that that regulation shall cease to have effect except as regards the making of a public offer for sale of securities of a body corporate, and it also revokes all the Capital Issues Exemptions Orders now in force.

No doubt this provision of the regulation has to be continued in force and cannot be replaced by the Control of Borrowing Order, as offers for sale of shares of companies

incorporated in England, unlike the other transactions at present prohibited by reg. 6, do not come within the scope of the Borrowing (Control and Guarantees) Act, 1946.

The position so far, then, is that under reg. 6 as amended public offers of securities of a body corporate are prohibited subject to such exemptions as may be granted by the Treasury, and an exemption has been so granted by the Capital Issues Exemptions Order, 1947 (S.R. & O., 1947, No. 946), which provides that the only public offers for sale of securities which shall in future require the consent of the Treasury shall be offers of shares or stock other than debenture stock of a body corporate in cases where that body corporate has within two years previous to the offer made any issue of shares or stock without the specific consent of the Treasury. Hitherto such issues might have been made under the exemptions conferred by the Capital Issues Exemptions Orders, and in future, as we shall see, may be made under the exemptions granted by the Control of Borrowing Order, 1947 (S.R. & O., 1947, No. 945).

Regulation 6 therefore in future only relates to public offers for sale of securities, and any other matters that were formerly dealt with by that regulation will now be dealt with by the Control of Borrowing Order, 1947, to which, after this extremely lengthy preamble, we can now turn our attention.

As in the case of the existing code the provisions of this order relate to individuals as well as companies, but it will be simplest first to consider the order generally and not merely in its relation to companies. The order is not a long one, but it is not easy at first sight to see exactly what effect it will have. For reasons of space I shall have to confine myself this week to a general description of its provisions and continue with a rather more detailed examination of those provisions next week.

Part I of the order is headed " General Extent of Control," and its main effect is as follows: Article 1 rations every person, which includes every company, to borrowing in Great Britain £10,000 in any period of twelve months, unless the consent of the Treasury is obtained to exceed that ration, and for this purpose money borrowed before the coming into operation of the order is to be counted. There are various cases to which that restriction is not to apply, e.g. borrowing by a person in the ordinary course of his business from a bank, borrowing money repayable on or not more than six months after demand where the loan is either unsecured or secured merely by a bill of exchange or promissory note, and various other cases dealing with local authorities' banking undertakings and personal representatives borrowing for the purpose of paying death duties. This prohibition does not apply to borrowing from the Government. It is also provided that if a guarantee is given in respect of a loan the loan is to count as a secured loan.

The second article provides that references to the borrowing of money include references to postponing the timefor repayment of money and also to arrangements by which the price of any property, other than of goods sold in the ordinary course of business or of an undertaking sold to a private company, allowed to remain unpaid but charged on the property.

The third and fourth articles deal with bodies corporate only, and prohibit issues of shares, and the fifth article prohibits the issue of securities by a foreign government, in both cases unless the consent of the Treasury is obtained.

Article 6, which deals with both bodies corporate and foreign governments, prohibits the circulation of any offer for subscription, sale or exchange of any securities of such institutions, and art. 7 prohibits the raising of money for the purpose of unit trust schemes, again in both cases unless the Treasury gives its consent.

All the prohibitions referred to above against doing various things without the consent of the Treasury are expressed to be subject to the exemptions contained in Pt. II of the order. The main article dealing with exemptions is art. 8, and I shall deal with that next week. It is, however, also provided that the prohibitions contained in Pt. I are not to apply to building societies, or to most industrial and provident societies, or to an issue of shares which is made in pursuance of certain schemes for sharing profits among the employees of bodies corporate.

Various miscellaneous provisions are contained in Pt. III, but the only one that I propose to notice this week is contained in art. 12. That article provides that consents granted by the Treasury may be either general or special, that they may be revoked, and may be absolute or conditional or for a limited period of time, and also that any consent given under reg. 6. shall have effect as if it had been made under the new order.

A CONVEYANCER'S DIARY

ASSENTS

I HAVE delayed for some time reviewing Mr. W. J. Williams' little book on Assents.* I took it up in the first instance with the feeling that there were quite enough law books already, and that I could not imagine why anyone should write another, especially about the law of property. This state of mind did not survive the first page. " The Law relating to Assents " is not just another text-book in a world too full of them, but a monograph recalling us to first principles on a highly important subject. Having come to that conclusion, I thought that perhaps I ought to write a review in some detail, attempting a critique of the learned author's treatment of certain current matters of controversy. This no doubt laudable intention seems daily further from realisation, and it would not be until the Long Vacation that I could even make a start with it. In the meantime, I feel bound to call the attention of every reader of this column to the book and recommend that it be read.

Briefly, the reason for the book is this. The Administration of Estates Act, 1925, and the other property legislation of the same year, have familiarised all of us with the written assent of an executor or administrator in respect of real estate or chattels real. But there is a long history behind the assent as we know it, and the provisions of s. 36 of the Administration of Estates Act are mostly grafted on to the previous law. They do not alter the nature of assents, and they do not cover the whole field. An assent at common law was the act of the executor in signifying, expressly or by implication, that the property the subject-matter of a legacy (not of a devise) was not wanted for the payment of debts. The legatee's title, inchoate until then, thereby became absolute, with effect back to the date of the testator's death. The assent conferred no new title; it merely made effective a title conferred by the will. The first point to note is that an assent was thus an impossibility both for real estate and on intestacy. Thus, it is not a matter for surprise to find that the Land Transfer Act, 1897, which first provided for real estate to vest in the personal representative (in itself a revolutionary change), while it allowed an executor to assent even by implication, did not take the further step of allowing an administrator to assent, but expressly required him to deal with the legal estate, if he had to do so, by deed. Here then is one of the traps into which a student of Mr. Williams' book could never have fallen, as I did comparatively lately. Nor, I know, was I alone in thinking that before 1926 the administrator could assent in favour of the heir, and could also do it by implication.

The next stage was s. 36 of the Administration of Estates Act, 1925; but here again the limits must be clearly recognised. The section says nothing about pure personalty; it permits, for the first time, an administrator to assent in respect of real estate and chattels real, a step necessary for carrying through the curtain principle, but intrinsically an

* " The Law relating to Assents," by W. J. Williams, B.A., of Lincoln's Inn, Barrister-at-Law. pp. xix, 138 and (Index) 5. Octavo. London: Butterworth & Co. (Publishers), Ltd.

excrescence. Having done that, s. 36 provides that an assent not in writing, or not in favour of a named person, shall not be effective to pass a legal estate. The most acute of the current controversies turns on this provision, namely, as to the character in which land is held by a sole executor and universal devisee who never executes any assent. I will not go into that controversy this week. Mr. Williams says (p. 27) that if the assent fails to comply with the section by not being in favour of a named person, "it might still be operative to pass the beneficial interest, but in practice this would be practically useless." The principle is important, however. A devise now becomes effective where assented to. The assent merely signifies the end of the administration so far as that item of property is concerned. If the assent fails, through want of due form, to pass the legal estate, it is none the less an assent. The result—the only possible one in my view—is that the title under the will, an equitable title because the will operates in equity only, becomes absolute, but the bare legal estate is left behind in the personal representative. Presumably it has to be got in by deed, since the executor can only assent once. I have seen a case quite lately where the effect of s. 5 of the Mortmain and Charitable Uses Act, 1891, upon a particular piece of land depended entirely on whether an assent not in favour of a named person was effective in equity. Why the authors of the Administration of Estates Act required an assent to be in favour of a named person I do not know. But the rule exists and its effects are not at all academic.

The provision that the assent shall not pass a legal estate unless it is in favour of a named person is linked in the same subsection with the similar disability attaching to assents not in writing, a fact which has some relevance to the controversial question as to the sole executor who is also sole devisee. It seems to follow that here, too, the beneficial title may become absolute without the legal estate necessarily having ceased to be in the personal representative as such. But I must not be taken as having expressed (or even as having formed) a concluded opinion on this point.

Section 36 does not affect pure personalty, and accordingly an executor can still assent to a bequest of pure personalty by parol or by implication. But it is still impossible for an administrator to assent at all in relation to pure personalty. He was formerly unable to assent in any event. Section 36 enables him to do so in respect of realty and chattels real, but there is no provision in that or any other section enabling an administrator to assent in respect of personalty. Thus, one sometimes sees in an abstract of title a note of a so-called assent in respect of a share of proceeds of sale of land held on trust for sale belonging to an intestate. As an assent, such a document must be a nullity; but it does not follow that it is not effective in some other way. For instance, it may amount to evidence that an appropriation has taken place.

I hope that I have said enough to indicate that Mr. Williams' book not only draws us back to first principles, but that it is of direct relevance to quite ordinary conveyancing. It is, in fact, a most disturbing book, because it shows how far we have slipped into the belief that "assent" is just the special name used for a transfer of property by a personal representative, and how utterly wrong this conception is. The generation that was in practice in 1925 may not have fallen into this error, but it has been almost universal among those of us who do not remember the days before the curtain.

To conclude, "The Law relating to Assents" is a book which all practitioners of conveyancing should read, and which is particularly of value to the younger ones. It remains to congratulate the learned author, and to wish him all success. I do not suppose that the book will go through many editions; it is probably not expected to do so. But it is bound to have an important effect on the thought and practice of the profession. It is a signpost rather than a monument; and a signpost is generally the more useful article.

LANDLORD AND TENANT NOTEBOOK

CONTROL AND PREMIUMS

ONE of the London evening papers recently published a large number of letters from its readers on the subject of the housing shortage. Readers of this journal who perused those letters will have been struck by their writers' frequent references to premiums, which references rarely distinguished between sums paid to landlords and sums paid to tenants. I was reminded of this when I came across a report, in the *Journal of Criminal Law* for April, 1947 (p. 127), of a prosecution under s. 8 (2) of the Increase of Rent and Mortage Interest (Restrictions) Act, 1920.

The section runs as follows, the words in brackets indicating the relevant date in the case of "new control": "(1) A person shall not, as a condition of the grant, renewal, or continuance of a tenancy or sub-tenancy of any dwelling-house to which this Act applies, require the payment of any fine, premium, or other like sum, or the giving of any pecuniary consideration, in addition to the rent, and, where any such payment or consideration has been made or given in respect of any such dwelling-house under an agreement made after the 25th March, 1920 [1st September, 1939], the amount or value thereof shall be recoverable by the person by whom it was made or given . . . (2) A person requiring any payment or the giving of any consideration in contravention of this section shall be liable on summary conviction to a fine not exceeding £100 . . ." By subs. (3) grants, etc. for fourteen years or more are excluded from the operation of the section.

In the reported case, the facts were that the defendant entered into a contract to purchase a certain house on 7th August, 1946. Two days later the vendor authorised him to decorate the premises, which he did. On 11th November he offered the prosecutor, who accepted the offer, a weekly tenancy of two rooms in the house, the rent to be 15s. a week, and the prosecutor to pay £25 "key money" plus £10 for the decorations just carried out. The prosecutor paid £15 at once, for which the defendant gave him a receipt, and the balance of £20 next day. On the second occasion the defendant asked the prosecutor to let him have the receipt back; the prosecutor complied, and the defendant forthwith burnt the document. On 20th December the house was conveyed to the defendant.

It was the last-mentioned fact that provided the defendant with his answer to the charge. For while in *Remmington* v. *Larchin* [1921] 3 K.B. 404 (C.A.), in which the grantee of a tenancy sought to recover a payment made to a previous tenant who had stipulated for it as a condition of surrendering his term (the landlord being ignorant of this part of the transaction), the court considered the section ambiguous, it was held that, in view of the penal provision, only a landlord was prohibited from requiring a payment, etc. And *Mason, Herring and Brooks* v. *Harris* [1921] 1 K.B. 653, in which it was held, despite strenuous argument on the wide meaning of the word "grant," that an assignment was outside the purview of the section, was approved.

The defendant in the recent criminal proceedings was, of course, neither an assignor nor a surrenderor; and his plea is reminiscent of the (presumably apocryphal) story of the man accused of a gaming offence who demonstrated that the game complained of was not—as he played it, that is—a game of chance. Indeed, in the course of the argument the learned magistrate took upon himself to suggest to the defendant's advocate that the course taken, while it might comfortably avoid Scylla, would bring him perilously near Charybdis, the whirlpool on this occasion being a prosecution for obtaining money by false pretences. The hint was appreciated, but on instructions the defence was persisted in and was successful (notes of evidence were subsequently sent to the Director of Public Prosecutions).

The latest edition of "Hill and Redman," when dealing with capacity to make leases, lists some eighteen varieties of potential grantors, including convicts lawfully at large. But a purchaser under a contract of sale, whether or not authorised to enter and decorate, is not among them (see *Thompson* v. *McCullough* (1947), 91 SOL. J. 147); in view of which, and of *Remmington* v. *Larchin*, I have no criticism to offer of the learned magistrate's decision.

That the section is sometimes blatantly ignored, and that devices for its evasion have been and are being devised, is highly probable; but so far, there appears to be only one case, *Rush* v. *Matthews* [1926] 1 K.B. 492 (C.A.), in which an attempt has been examined. The landlord in that case granted, by one document, a fourteen-year lease at a yearly rent at the permitted figure, but payable weekly, the tenant being given the right to determine the lease by one week's notice; in another document executed the same day the tenant agreed to pay "the sum of 11s. 6d. weekly by way of premium." He was then given two books, a rent book and a "premium" book, and after a time withheld payments of the weekly "premium." It was held that the 11s. 6d. was in fact rent.

Those who used their ingenuity in that case concentrated on exploiting the exemption provided for in s. 8 (3) rather than on disguising some payment or advantage so that it should not answer to the description of "any fine, premium, or other like sum, or the giving of any pecuniary consideration." Indeed, the second document, as we have seen, used the word "premiums," and so did the book in which acknowledgment was made of the payments; but, especially when one considers the tenant's option to give a week's notice, it is difficult to reconcile the consideration with Warrington, L.J.'s suggested definition of a "premium": "a cash payment made to the lessor, and representing, or supposed to represent, the capital value of the difference between the actual rent and the best rent that might otherwise be obtained" (*King* v. *Cadogan* (*Earl*) [1915] 3 K.B. 485).

Why it was thought necessary to bring in "fine" is hard to say. When used in what is now the Law of Property Act, 1925, s. 144 (restriction on right to impose conditions on consenting to alienation), according to Fletcher Moulton, L.J., in *Waite* v. *Jennings* [1906] 2 K.B. 11 (C.A.), it "includes any valuable consideration given or required under such circumstances that, if it were money, it would be commonly known as a 'fine'." Incidentally, the definition in s. 205 (1) (xxiii) states that "fine" includes "premium." Possibly the word "premium" was introduced because it enjoys a popular meaning, and it may be that the subsection goes on to speak of "pecuniary" rather than "valuable" consideration for the same reason. But it is possible that a fine distinction might be drawn, e.g., if A says to B: "I will let you my house at such and such a sum if you will first repair it," or "if you will lend me £*x* for so many years at no, or at a low rate of, interest," or "if you will get me into your exclusive club."

Those concerned with attempts to defeat the object of the section may usefully compare and contrast its operation with, on the one hand, that of the Goods and Services (Price Control) Act, 1941, s. 8, and, on the other hand, with that of the Furnished Houses (Rent Control) Act, 1946, ss. 4 and 9. The former deals with what is commonly called "couple selling"; it is more elaborate than ss. 11 and 13 of the Prices of Goods Act, 1939, which it replaced; but it still does not prohibit "couple buying" and the result is that most retailers of, say, fruit and vegetables, and many of their customers, know from experience that they will be unable to obtain price-regulated commodities unless they buy, at the same time, some which have no maximum prices. The latter forbid both the requiring and the receiving of rent above the permitted amount and payment of any premium or any like sum or *any* consideration in addition to the rent, and both the requiring and receiving are made criminal offences. In the case of the Increase of Rent, etc., Act, 1920, s. 8, the consequences of requiring and receiving appear to be that the amount or value can be recovered in civil proceedings; but only the requiring can be punished by a fine.

TO-DAY AND YESTERDAY

June 9.—On 9th June, 1736, at a Court of Common Council at the Guildhall, it was ordered "that the Recorder be desired to be present at the next Common Council and give his reasons why he did not attend the Lord Mayor and Common Council when they waited on His Majesty with their Address on the Prince of Wales's Marriage." The Recorder was Sir William Thompson, who was elected in 1715 and had retained his place although appointed a Baron of the Exchequer in 1729.

June 10.—On 10th June, 1706, the Gray's Inn Benchers appointed a committee "to treat with such workmen as they shall think fit for new wainscotting, mending and adorning the Hall, so that the work be finished before the first day of Michaelmas Term next." The new wainscotting had large panels replacing the small panels of that set up in 1560. It cost £67 13s. Francis Bacon's redesigning of the garden had included the making of a bowling green at the back of the Walks. By the beginning of the eighteenth century most of it had been converted into a garden and a house, sheds and a yard built on the east end. A lease of these was on this day granted to one John Lewis, on his entering into a bond to keep the premises in good repair.

June 11.—On 11th June, 1714, the Gray's Inn Benchers granted a lease of "the chambers in Seckford's Buildings and next the gallery," reserving liberty "for the House to make use of the great chambers on grand days and to go into the gallery next the Hall." These buildings abutting on the west end of the Hall were called after Sir Thomas Seckford, Reader in 1566, and Master of the Requests in 1568.

June 12.—On 12th June, 1725, the Gray's Inn Benchers ordered "that for the future, if any member of this Society be called to the Bar, upon making a deposit of £20 in lieu of a chamber, that if he shall keep his commons for five years next after he is called to the Bar and shall pay for his said commons and all other the duties of the House coming from him for the said five years, that thereupon, at the said five years' end he may be repaid out of the said £20 deposit the sum of £10, the other £10 thereof being to answer to the House the duties of assignment of chambers, ground rent and other duties incident to chambers if he had had any." It was also ordered that the pavement from "the sink in Chapel Court next the pump at the entering in into the Hall to the side of the Hall next the cellar" be repaired.

June 13.—In 1738 Gray's Inn was projecting the rebuilding of the south side of Holborn Court, and on 13th June Thomas Gorham, the Society's bricklayer, and his son, were appointed surveyors of the new buildings. Ten guineas was to be paid to them. Gorham was appointed bricklayer in 1726. He resigned in 1797 "on account of his great age."

June 14.—In 1776 Gray's Inn was purchasing the two houses east of the Holborn Gate to erect the Gray's Inn Coffee House. On 14th June the Benchers decided on the sale of £1,000 bank annuities, part to be used for the purchase of Abingdon's Coffee House, one of the buildings to be demolished.

June 15.—On 15th June, 1787, the Treasurer communicated to the Gray's Inn Benchers a message from Lord Chief Baron Eyre that, if it was agreeable to them, he would hold the sittings in the Exchequer in Gray's Inn Hall. They directed the Treasurer to wait on him with their thanks for his mark of attention and an intimation that they were ready to accommodate him. A message also came from the Middle Temple Benchers inviting Gray's Inn to send a committee to their Parliament Chamber to confer with committees from the other Inns of Court to consider, in relation to admissions and calls to the Bar, "whether bonds or deposits are most eligible." A committee was directed to attend and signify "that it is the opinion of this Society that the bond is the better course to be taken." Giving a bond was in accordance with the ancient custom.

FEELING THE HEAT

During the great heat wave a member of the Bar briefed to appear in the court of Mr. Justice Wynn Parry found himself inaudible and invisible by reason of the absence of his waistcoat.

Such incidents are relatively rare, but there was an occasion once in the court of Mr. Justice Bennett when counsel attempted to address him in a white waistcoat. "I cannot hear you and I cannot see you," said the judge. "White waistcoats are not permitted in court. It is a custom that I am bound to observe." And, as the barrister tried to conceal the offending garment, he was told: "It is no good buttoning it up." Henn Collins, M.R., adopted a slightly different formula on a similar occasion: "I can hear you, but I cannot see you." To late Victorian times belongs another story of a decidedly unconventional member of the Bar who, while on a visit to a country house, found that he had to attend a county court at very short notice. He borrowed a horse from his host, rode to the railway station *à bride abattue*, caught his train by seconds and at the other end hardly had time to robe before he dashed into court. While he was opening the judge started eyeing such portion of his legs as was visible with curiosity and astonishment. Riding breeches made a very peculiar adjunct to forensic robes. Immediately the hearing was adjourned while counsel went in search of a tailoring establishment to buy himself a pair of suitable trousers. In general, however, nether garments do not appear to be quite so strictly controlled as those above, although Mr. Justice Byles used to say: "I always listen with little pleasure to the arguments of counsel whose legs are encased in light grey trousers." Vice-Chancellor Bacon had a similar sentiment where moustaches were concerned and was known to say to counsel: "If you *will* wear that nasty stuff in front of your mouth I can't hear you." The recent heat wave, however, inspired some relaxations and indulgences. In the House of Lords, Scots counsel, even less accustomed than the English to high temperatures, were permitted to remove their wigs. In the Divorce Court at Nottingham, Judge Caporn, sitting without a jacket under his robes, said: "If any lady or gentleman wants to remove their coat I shall think it nothing but an act of sensibility." That is a change from the days when some consternation was caused at the Lewes Assizes by a fat, jolly old farmer. The day was hot and Mr. Baron Martin, removing his wig, gave permission for the Bar to follow suit. "A werry good suggestion, my lord," said the farmer and took off his coat.

Derby Day

Since the Derby was run on a Saturday this year, there was no need for either judges or counsel to devise any subterfuges to account for their absence from the Law Courts, even assuming that any of the present generation would be so lacking in seriousness of purpose. With our jolly Victorian ancestors it was different. Even at this distance of time, it is still remembered with what keen ingenuity that constant patron of the turf, Mr. Justice Hawkins, arranged his absences on the great day without any apparent dereliction of duty. There would be cases in his list all right, but counsel were privately encouraged to ask for an adjournment. Once an eminent Queen's Counsel, with no sporting proclivities at all, was persuaded to make the necessary application, and Hawkins, with a great show of reluctance, granted it as "a matter of very personal convenience," not without voicing strong suspicions that he wanted "to go to a certain meeting."

COUNTY COURT LETTER

Greater Hardship

In *Wyborn* v. *Fenton*, at Canterbury County Court, the claim was for possession of a house bought by the plaintiff in 1939. In 1940 the plaintiff was called up, and his wife moved elsewhere. In 1941 the house was let to the defendant, a policeman. In the spring of 1946 the plaintiff was demobilised, and he obtained work as a warehouseman. He was living, with his wife and two young children, in a bedroom and living room in the house of his mother-in-law. The defendant was aged sixty-two, and his case was that, after thirty years' police service, he had retired on a pension of 86s. a week, exclusive of income tax. He had to provide a home for his wife and son, aged twenty-nine. His Honour Judge Clements made an order for possession in one month.

In *Dick* v. *Bailey*, at Canterbury County Court, the claim was for possession of a house let to the defendant in 1944. The plaintiff's husband had died in 1943, and the plaintiff took up work in Nottingham. Her furniture was stored in one room in the house. In March, 1945, she gave the defendant notice to quit, as she wished to earn a living by taking lodgers. She was living on her capital, and was paying 32s. 6d. a week for a furnished room. Her income from investments was £142 a year. The defendant's case was that he was the manager of a chocolate depot, containing goods worth £20,000. His firm required him to live in the vicinity of the depot. His Honour Judge Clements held that the greater hardship was upon the defendant, who had nowhere to go. No order was made.

The Definition of a Furnished Letting

In *Cockle* v. *Evans*, at Aberystwyth County Court, the claim was for possession of a dwelling-house, and £10 as damages for trespass. The plaintiff's case was that she bought the house in 1923, when it was let to a Mr. Davies at a rent of £15 a year. After the death of his wife, in July, 1945, Mr. Davies sub-let two bedrooms, and joint use of the dining room and kitchen, to the defendant. This was a furnished letting, at a rent of 15s. a week. Mr. Davies died in June, 1946, and his daughter gave the key to the plaintiff's agent. Possession was required for a friend of the plaintiff, but the defendant had gone into occupation of the rooms previously occupied by Mr. Davies. The defendant had a wife and four children, and his case was that he took it for granted that the plaintiff would let the whole house to him. He therefore moved his furniture without permission into the vacant rooms previously occupied by Mr. Davies. The Rent Acts accordingly protected the defendant. His Honour Judge Temple Morris, K.C., held that there had been a furnished letting. Moreover, there was joint use of a vital room—the kitchen. The Rent Acts, therefore, did not protect the defendant, who had taken possession in a bare-faced manner. Judgment was given for the plaintiff for £5 damages, with possession in twenty-eight days, and costs on Scale B.

REVIEWS

Patents of Invention. By Allan Gomme, late Librarian of The Patent Office. 1947. London: Longmans, Green and Co. 1s. 6d. net.

Inventions, Patents and Monopoly. By Peter Meinhardt, with a foreword by James Mould. 1946. London: Stevens and Sons, Ltd. 25s. net.

The first of the above books is a brief survey of the origin and growth of the patent system in Britain. The author was for forty years a member of the staff of the Patent Office, which is now one of the most important Government departments. Added interest is given to the volume by the eight illustrations in photogravure. This work enhances the author's reputation as a writer of papers on the historical aspects of patent law and practice, published by the Newcomen Society.

The author of the second of the above books discusses the relationship of patents to the British Industrial system.

Part I analyses the influence of inventions upon the community; Part II traces the growth and development of patent law; Part III deals with the abuse of patent rights; Part IV contains suggestions for reform of patent law, having regard to the second interim report of the Swan Committee. The work may accurately be described as an unique contribution to the literature of the subject.

The New Towns Act, 1946. By Desmond Heap, LL.M., L.M.T.P.I. 1947. London: Sweet & Maxwell, Ltd. 35s. net.

As the Foreword by the present Minister of Town and Country Planning points out, the author's wide experience of planning law is well known. This work can be recommended strongly to anyone concerned with an area designated or to be designated as the site of a new town.

Part I of the book contains an outline of the Act; Part II its annotated text; Part III the Act as applied to Scotland; and Part IV the Registration of Orders Rules, 1946, made under the Act. A very considerable number of provisions is imported from the Town and Country Planning Act, 1944, and, a most useful feature of the book, the relevant extracts from this and other Acts are included as modified for the purposes of the 1946 Act. So considerable indeed is this importation that the extracts in the appropriate places take up nearly half of Part II. Added interest is given by the binding up with the book, as Part V, of the two Interim and the Final Reports of the New Towns Committee, for, while not all their recommendations are embodied in the Act, they give the guiding principles behind it and a practical idea of what may result.

It seems unlikely that the Town and Country Planning Bill will, apart from the change in the basis of compensation, affect the Act and the provisions imported into it sufficiently to detract substantially from the value of the book.

ANGLO-FRENCH LEGAL CONFERENCE

THIS conference took place at The Law Society's Hall between the 2nd and 7th June. It originated in a suggestion made to the Council of The Law Society in January, 1946, by Sir Geoffrey Vickers, and was organised by an English and a French committee working in close collaboration. The English committee contained representatives of The Law Society, the Bar and the Society of Public Teachers of Law. Mr. Douglas T. Garrett, president of The Law Society, took the chair at the opening plenary session. Forty-six French delegates and their ladies, headed by Maître Maurice Mehrmann and Maître Charles Jutelet, represented the French legal profession, and H. E. the French Ambassador was represented by his legal councillor, M. Roché. The Lord Chancellor, Lord Jowitt, attended, and the audience contained other distinguished members of the Bench and Bar and of the legal teaching profession, representatives from the Council of Solicitors and the Faculty of Advocates in Scotland, the Attorney-General of Jersey and the Solicitor-General of Guernsey.

Mr. Garrett emphasised in his opening address that the conference had met spontaneously and not at the suggestion of any official authority, though it had the benevolent encouragement and patronage of the Governments of both countries. Preparations had been pressed forward energetically without waiting for conditions of accommodation, food, currency and the like to improve, for the committee had regarded the conference as an enterprise of immediate importance and value. Hence, with heads still bloody but unbowed, lawyers of the two countries had come together at the earliest opportunity, mostly elderly, over-worked and rather weary, wearing clothes made before the war, but united by bonds much more profound than mere good will and mutual respect. Looking backward, they saw that the cause which both countries had defended had prevailed; the case had been rightly decided and the democratic outlook, the value of the individual, and respect for the human person and the rule of law had been vindicated and upheld. Looking forward, however, they realised that the battle for peace was not yet won and that the cause of the individual against the State still needed its champions. Where, he asked, should those champions be found in Europe if not in France and the United Kingdom; and who should be the first to stand forth if not the lawyers? The only alternative to the rule of force was the rule of law, binding upon all nations at whatever sacrifice of national sovereignty. That lesson had not yet been learnt by the world, and the time for learning it might be short.

The Lord Chancellor congratulated The Law Society, the Bar Council and the Society of Public Teachers of Law on their co-operation. England and France were separated by a strip of water but for which England would inevitably have suffered the fate which France had suffered. There must be no strip, however narrow, between the sympathy and understanding of the two peoples. Unless France were free to develop according to her own genius, civilisation had come to an end. The chief problem of government to-day was how to harmonise the right of the individual with plans for the common good. Unless the individual remained free to grow according to his own ideals, he would never develop his full stature; if, on the other hand, he was concerned merely to pursue his own good, the national strength would not develop. To the solution of this problem lawyers could probably contribute more than any other set of men. The Lord Chancellor was much concerned with the reform of law in order to bring its costs within the reach of the ordinary man, and in this respect English lawyers would derive great benefit from discussions with their French colleagues. The greatest task he had was to see that the judges were kept free from political pressure and that the lawyers set the interests of their clients above all other motives. Only so could the people be sure of retaining those liberties which their ancestors had won for them.

Maître Mehrmann, for the French delegation, replied to the welcome of the chairman and in his turn greeted the representatives of British legal institutions. He recalled the visit paid by French lawyers to The Law Society in 1936; the good seed sown then was bearing fruit in the present conference. Comparison of legal thought and practice on both sides of the Channel would lead not only to fresh knowledge but also to fresh sympathy and understanding between the two legal professions. Britain and France were the twin pillars of modern civilisation and must support each other, for each without the other must fall.

ORGANISATION OF THE COURTS

During the week the Conference assembled in eight committees to discuss as many definite aspects of law and procedure. At the final plenary session detailed reports were presented. Mr. Roderick Dew, reporting the findings of the committee discussing the organisation of the courts, said that the English organisation was basically central, the French basically local. French procedure was surprisingly cheap and English surprisingly expensive, but French decentralisation did not make for much greater expedition. Whereas in England judges were chosen from the most experienced members of the Bar, in France they followed a judicial career from the start. Even in high office a French judge's position compared unfavourably with that of an English judge, whose much higher social position was considered by the French members to be a distinct advantage, as it meant a far higher national regard for law. Whereas in England the loser usually had to pay all the costs and disbursements allowed by the court, in France each party paid the costs of his own *avocat* and the loser only paid the court fees. This difference clearly had a great bearing on the number of appeals in the two systems. Special tribunals in France seemed to be free from many of their objections in England: the President must always be a professional judge, there was more freedom of appeal, and the right of audience was less restricted. Nevertheless, the French members were emphatic that the extension of these courts was most undesirable, and the committee expressed a desire that its disapproval of them should be recorded in some permanent form.

ORGANISATION AND REMUNERATION OF THE LEGAL PROFESSION

Mr. L. C. B. Gower presented the report of the committee considering the organisation and remuneration of the legal profession. He said that, though both the English and the French systems had a divided profession, the English system seemed to have the advantage that the client could initially obtain advice on all his legal problems from the solicitor, whereas in France he might have to go for different matters to the *notaire*, the *avoué* and the *avocat*. Fusion was frequently discussed in both countries and divided opinions were expressed. The greater expense of litigation in England seemed in the main to be due, not to deficiencies in the organisation of the legal profession, but to the more formal English civil procedure. The wide scope of the English solicitor's function had had the advantage of eradicating such persons as *agents d'affaire* who were not necessarily subject to proper professional supervision and discipline. Both the French and the English systems were coming to recognise that for all branches of the profession it was essential to have both a theoretical training in principles of law and a period of practical apprenticeship followed by a practical examination. The French system seemed more advanced than the English, principally because France appeared to have obtained a greater co-ordination between the roles of the universities and of the professional bodies. In France the professional bodies required a university degree; in England the university training differed largely from that required by the professional bodies and was not recognised as being any part of a professional qualification. It was therefore not accepted in England that theoretical training should be undertaken by the universities and practical training by the professional bodies.

The remuneration of barristers in England was similar to that of *avocats* in France, except that in France expensive luxuries such as the two-thirds rule were unknown. Since 1919, when payment of *avoués* had been made proportionate to the importance of the case and the amount involved, France had been in advance of England in fairness of remuneration of solicitors. Both the English and the French members had stated that they were less well remunerated than before the war having regard to the increased cost of living. In the provision of legal aid for poor persons both systems had met the same difficulty, that a system dependent on the charity of lawyers imposed an excessive burden upon the profession. A scheme somewhat similar to the Rushcliffe Scheme had been projected in France, but had not progressed so far. In France there was no disqualification above a fixed limit of income or capital.

ADMINISTRATIVE TRIBUNALS

Professor A. L. Goodhart, K.C., reported the findings of the committee on the scope and function of administrative tribunals, and the distribution of issues between judicial and administrative tribunals. This committee, he said, felt it essential that those who had to make administrative decisions should understand and be guided by fundamental legal principles. The idea of a basic distinction between legal and administrative justice was a dangerous one.

Maître M. Hersant, reporting the discussions on proceedings between the citizen and the State, emphasised the fundamental contrast between the French and English ideas of *droit*

administratif. The notion of public law in France came from the rigid basic principle of the separation of administrative from judicial authorities. All proceedings against the State, including inferior executive bodies, were heard before the Council of State or its inferior administrative tribunals. Nevertheless, the two countries had certain problems in common, including the production of public documents before the court. Whereas in England damages against the State were assessed on the same basis as damages between subject and subject, in France the Government could be made liable wherever a subject suffered an injury outside the normal social risk, and damages were assessed at a sum of money corresponding to the material damage actually suffered. The committee declared its opinion that in general and in the absence of a good reason of State to the contrary, the subject's rights against the State should be the same as his rights against another subject, and that proceedings against the State should be tried by a completely independent tribunal.

Maître Michel Degouy reported on civil procedure before judgment, and Mr. John Archibald read a report drawn up by Professor Solus dealing with the execution of judgment. From this it appeared that, whereas English law allows immediate execution even if an appeal is pending, French law stays execution until the hearing of an appeal. The reason seems to be that in English law appeals are less common, perhaps because of a difference in the mental attitude of litigants, perhaps because of the higher costs. French law allows in certain circumstances a "provisional execution" pending an appeal, on condition that the judgment creditor gives security against reversal of the judgment. The two systems are therefore both flexible enough to work well in practice. A practice introduced in France in 1942 as an alternative to security provides that the proceeds of provisional execution shall be paid to a stakeholder or into court. This gives both sides full security and relieves them of financial embarrassment.

Arbitration

The committee on arbitration had before it a paper by Maître Jacques Quartier on the French system, and another by Sir Lynden Macassey, K.C., on the English system. It agreed that as far as possible a common system of arbitration between nationals of France and of England should be established. This would involve at the beginning at least one alteration in the arbitration law of each country. Under French law a clause in a contract providing that future disputes should be determined by arbitration was only valid if the contract was a commercial one. In English law no such restriction existed, and the committee unanimously felt that it should be abolished also in France. The committee noted the general desire of parties to commercial contracts that where the contract provides for arbitration, the decision of the arbitrator on law and fact shall be final, and also noted that whereas a provision in the contract to this effect is valid by the law of France, Scotland, and most of the British Dominions, it is invalid and unenforceable by the law of England. The committee were impressed with the necessity of limiting the number of proceedings which can be instituted in English courts of law with regard to arbitration, not merely because of the expense to the parties but also because of the depreciating effect on arbitration. It passed a resolution, with one dissentient, that the parties should be competent to agree that if, after a dispute has arisen, they have agreed upon a named arbitrator or upon machinery for appointing him, no application shall be made to the court to decide any question of law or fact affecting any dispute which has been referred to arbitration.

Rules of Evidence

The committee dealing with this subject had before it a paper by Mr. G. D. Roberts, K.C., dealing with the English law of evidence. Professor Batiffol, reporting its findings, said that the onus of proof, in criminal as in civil matters, was the same in France as in England, and the committee had inquired into the widespread fallacy that in France the guilt of the accused was assumed until he was proved innocent. It appeared that the rules of the Statute of Frauds were less exacting than the French rule requiring written evidence of a contract involving an amount over 500 francs. Discussion of the French use of written evidence compared with the English system of examination and cross-examination had pointed strongly to the advantages of the English system, the disadvantages of the French system, and the reasons for its retention.

At the close of the conference Maître Maurice Mehrmann said that the highest hopes for its success had been realised. He proposed that henceforward a similar conference should be held every year in Paris and London alternately. The chairman agreed that the conference had achieved something not quite like anything which had been achieved before. He was convinced that the results deserved and must be given some permanent form. Doubtless this would be decided by another meeting of the joint committee, which might also recommend executive action on any of the topics that had been discussed. If a yearly conference could be instituted, no one would be more pleased than the members of the Council of The Law Society. Since the outbreak of the second war Englishmen had become better Europeans, less self-satisfied, and more deeply interested in the institutions of other countries.

NOTES OF CASES

COURT OF APPEAL

Oak Property Co., Ltd. *v.* **Chapman and Another**

Somervell and Evershed, L.JJ., and Wynn Parry, J.

16th May, 1947

Landlord and tenant—Rent restriction—Part of premises sub-let furnished by statutory tenant—Remainder sub-let without landlord's consent—Furnished sub-letting terminated before action for possession brought—Whether second sub-tenancy valid—Acceptance of rent from statutory tenant with knowledge of breach—Common-law principles of waiver—Applicability to statutory tenancy—Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 (10 & 11 *Geo.* 5, *c.* 17), *s.* 15 (3)—*Rent and Mortgage Interest Restrictions (Amendment) Act*, 1933 (23 & 24 *Geo.* 5, *c.* 32), *Sched. I, para.* (*d*).

Appeal from a decision of Judge Davies, given at Bloomsbury County Court.

By an agreement in writing a flat subject to the Rent Restriction Acts was let by the plaintiff company to the first defendant, who at the material time was a statutory tenant who had held a three-monthly tenancy at £159 9s. 8d. a year. The lease provided that the tenant should not sub-let the flat or any part of it without the landlords' consent, and gave them a right of re-entry for her breach of covenant. In March, 1945, the statutory tenant sub-let all but two rooms of the flat furnished to a Mrs. Jacobson. On 1st March, 1946, the statutory tenant let the two rooms to the second defendant unfurnished. That sub-letting having come to the knowledge of the plaintiffs' managing agents, they accepted two payments of rent from the statutory tenant. On 1st August, 1946, Mrs. Jacobson gave up her tenancy and vacated her part of the flat, the statutory tenant's furniture remaining in it. On 20th August the landlords brought this action against the statutory tenant and the sub-tenant for possession. The statutory tenant submitted to judgment. The county court judge dismissed the action as against the sub-tenant, and the landlords now appealed. (*Cur. adv. vult.*)

Somervell, L.J., reading the judgment of the court (prepared by Evershed, L.J.), said that it was argued for the landlords first, that as, at the date of the sub-letting to the defendant sub-tenant, the rest of the premises were already sub-let to Mrs. Jacobson, the second sub-letting, as a matter of law and notwithstanding the intention of either party to the contract, necessarily involved an abandonment by the statutory tenant of all possession or right to possession of the whole flat; so that, never having had any other interest, in the eyes of the law, as statutory tenant, than the right of possession, she could, at the date of the sub-letting, confer on the defendant sub-tenant no right or interest in the part which she purported to sub-let to her. The contract of 1st March was accordingly said to be a nullity, and incapable of being animated by anything which happened afterwards. By para. (*d*) of Sched. I to the Rent and Mortgage Interest Restrictions (Amendment) Act, 1933, the court had power to make an order for possession against the tenant who sub-let without the consent of the landlord the whole of the premises or part thereof, the remainder being already sub-let. Though the absence of the landlords' consent on 1st March would then have given them the right to invoke the jurisdiction of the court, the terms of that paragraph did not mean that any sub-letting of part of the premises, the remainder being already sub-let, made at the time without the landlords' consent, must be regarded altogether as a nullity. The only question here was whether the sub-tenant, however spectral her interest by virtue of the contract of sub-tenancy, could be described as a sub-tenant to whom the premises had been "lawfully sub-let" within the somewhat artificial meaning of s. 15 (3) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920. In view of *Roe* v. *Russell* [1928] 2 K.B. 117; 72 Sol. J. 73, and *Haskins* v. *Lewis* [1931] 2 K.B. 1, it must be taken as established that a sub-letting by a statutory tenant of

part of his premises would be effectual to confer on the sub-tenant the rights specified in s. 15 (3) of the Act of 1920 if, at whatever might be the material date, the statutory tenant retained a sufficient possession of or interest in the remainder of the premises to preserve his own rights as statutory tenant. On this principle the landlords here must fail, for, in the opinion of the court, the material date for this purpose was that on which the proceedings for possession were brought. On that date, 20th August, the remainder of the premises was not in fact sub-let. The court did not accept that the sub-tenancy here, if ineffectual in law on its creation, was thereafter incapable of being rendered effective. The statutory tenant having regained possession of the remainder of the flat, the second sub-tenancy became effective. The defendant sub-tenant therefore came within the protection of s. 15 (3). The county court judge had decided adversely to the landlords the contention that they had waived the breach of covenant by accepting rent from the statutory tenant with knowledge thereof, and had thus applied to a statutory tenancy the well-known principle of waiver applicable to a common-law lease. The court thought that the common-law principles of waiver could not apply, at any rate wholly, to a statutory tenancy. In their opinion, the acceptance of rent by a landlord with knowledge of a non-continuing breach of covenant by a statutory tenant entitling the landlord to go to court was not so unequivocal an act of affirmation of the tenancy as was acceptance of rent in like circumstances from a contractual tenant. They thought that the strict common-law rule in regard to a qualified acceptance of rent was not applicable to a statutory tenancy, and that a qualified acceptance of rent from a statutory tenant was not necessarily fatal to the landlords' rights to seek an order for possession. The fair rule was that a landlord who had acquired full knowledge of a non-continuing breach of covenant by a statutory tenant entitling him to invoke the jurisdiction of the court should be entitled thereafter to receive rent without being held to have waived the breach, provided that he made it clear to the tenant that the receipt of rent was without prejudice to his right to go to the court, and provided that he sued for possession within a reasonable time. Here the facts showed that the conduct of the landlords amounted to waiver. The appeal must therefore be dismissed.

COUNSEL: *Safford*, K.C., and *Neligan*; *Heathcote-Williams*.
SOLICITORS: *Leslie A. Fawke*; *Woolley, Tyler & Bury*.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law]

PROBATE, DIVORCE AND ADMIRALTY AND COURT OF APPEAL

J. *v.* J.

Jones, J. 22nd November, 1946

Somervell and Cohen, L.JJ., and Lynskey, J. 23rd May, 1947

Husband and wife—Nullity—Husband sterilised by operation before marriage—Wilful refusal—Incapacity—Wife's knowledge before marriage—"Insincerity."

Undefended petition for annulment of marriage.

Shortly before the marriage the husband had an operation performed on himself which rendered him sterile. The wife knew before the marriage was solemnised that the operation had been performed and that she would not be able to have a child by the husband. She now sought the annulment of her marriage with the husband on the ground that he had wilfully refused to consummate the marriage or, in the alternative, was incapable of consummating it. (*Cur. adv. vult.*)

JONES, J., in a written judgment, referred to *Cowen* v. *Cowen* [1946] P. 36; 89 SOL. J. 349, and said that, by having the operation which had rendered him sterile, the husband had artificially prevented his wife from having a child by him, and that that action on his part amounted to wilful refusal to consummate the marriage. He (his lordship) had to consider the question of the wife's knowledge and acquiescence in her husband's having the operation. The wife had known before the marriage was solemnised that the operation had, in fact, been performed, and that she could not have a child by her future husband. His lordship referred to *G.* v. *M.* (1885), 10 App. Cas. 171, and to *L.* v. *L.* [1931] S.C. 477, and said that the wife must be held to have acquiesced in the circumstances of the marriage of which she now complained, and that it would be inequitable and contrary to public policy that she should be granted a decree. She appealed to the Court of Appeal. (*Cur. adv. vult.*)

SOMERVELL, L.J., reading the judgment of the court, said that it was established by *Cowen* v. *Cowen*, *supra*, that a marriage was not consummated if a husband, by his own act in insisting on using a contraceptive, prevented sexual intercourse from having its natural consequence. The husband in the present case had effected by an operation what could have been effected by the use of a contraceptive on each successive occasion. Applying *Cowen* v. *Cowen*, *supra*, the court thought that the husband, by his act in submitting to the operation, had rendered himself incapable of effecting consummation. There remained the question of the wife's knowledge before marriage. When the parties had been engaged for some months she had refused to sign the statement, required by the doctor who was to perform the operation, setting out her and her future husband's understanding of the effect of the operation. She ultimately consented to sign on the husband's promise to wait until after the marriage to have the operation, for she hoped after marriage to be able to persuade him to a different view. In spite of his promise, he underwent the operation before the marriage, and that came to her knowledge some six weeks before the marriage. Was that knowledge of the wife in law an absolute bar to her petition? It was an important question as shedding light on the issue of "sincerity." Langton, J., in *Nash, otherwise Lister* v. *Nash* [1940] P. 60, expressed the view *obiter* that the wife's knowledge of impotence before marriage was not an absolute bar in law. In the opinion of the court that was a correct statement of the law. The question remained whether the petition should be dismissed in all the circumstances, including the wife's knowledge, for lack of what was called "sincerity." The wife did not know that she had or might have grounds for a decree of nullity until late in 1945. She then left her husband and began these proceedings. That mere lapse of time was no bar was in accordance with what Lord Selborne had said in *G.* v. *M.*, *supra*, at p. 189. The material date was when a petitioner not only knew the facts but was aware of his or her legal rights. The opinions of Lord Selborne and Lord Bramwell in that case, although *obiter*, were the most authoritative guidance on the subject. The court felt no difficulty about the period after the marriage, as the wife had sought to exercise what might be her legal rights as soon as she became aware of them. The court took a different view from Jones, J.: the wife's knowledge had not existed at the time of the engagement; it had been sprung on the wife a few weeks before the date of the marriage; it would not have been an easy reason for her to give for breaking off the marriage; she had felt that it was too late to draw back. The court did not think that the petition should, in all the circumstances and applying the principles referred to in *G.* v. *M.*, *supra*, fail for "insincerity." The question of wilful refusal to consummate the marriage did not, in the opinion of the court, arise. The appeal would be allowed and a decree *nisi* of nullity pronounced.

COUNSEL: *O'Sullivan*, K.C., and *R. J. A. Temple*.
SOLICITORS: *Preston, Lane-Claypon & O'Kelly*, for *R. M. Wood, Johnson & Sons*, Birmingham.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

CHANCERY DIVISION

In re **Priestley's Contract**

Romer, J. 1st April, 1947

Vendor and purchaser—Contract incorporating The Law Society's Conditions of Sale—Purchaser let into possession—Special condition providing for payment of interest after date fixed for completion—Delay in completion due to vendor's default—Whether interest payable—The Law Society's Conditions of Sale, cll. 6, 7.

Adjourned summons.

By a contract dated the 23rd January, 1946, D agreed to purchase from P and M a dwelling-house for £1,800. The contract incorporated The Law Society's Conditions of Sale (1934 ed.) so far as they were not varied by the special conditions. The special conditions by cl. 3 fixed the 20th February, 1946, as the date for completion, and provided that, if the balance of the purchase money was not paid on that date, it was to carry interest at 5 per cent. until payment. Special condition 4 stated that the vendors were selling as trustees for sale. Special condition 8 provided that vacant possession should be given on completion and that cl. 6 (2) (*d*) of the general conditions, which provides for the payment of interest by a purchaser who takes possession before completion, was to be deemed omitted from the contract. The general conditions by cl. 7 provide: "(1) If from any cause whatever (save as hereinafter mentioned) the completion of the purchase is delayed beyond the date fixed for completion, the purchase money, or where a deposit is paid, the balance thereof, shall bear interest at the rate of £5 per cent. per annum from the date fixed for completion to the day of actual payment thereof. . . . (3) No interest shall become payable by a purchaser if and so long as delay in completion is attributable to (*a*) default by the vendor in deducing title in accordance with the contract,

. . . (*b*) any other act or default of the vendor . . ." The purchaser was let into possession in January, 1946. Completion did not take place on the 20th February, 1946, the day fixed for completion, as the purchaser's solicitors on examining the title found that M, one of the vendors, had not been appointed to be a trustee and the property was vested in P and his wife. The proposed deed of appointment of M in place of P's wife had been engrossed and stamped but it had not been executed; the vendors, however, stated that it would be executed immediately before completion. The sale in fact had never been completed. The summons was taken out by the vendors under s. 49 of the Law of Property Act, 1925, for a declaration that they were entitled to interest on the unpaid balance of the purchase money at the rate of 5 per cent. per annum from the 20th February, 1946, to the day of actual completion.

ROMER, J., said that the first question which arose was whether the delay in completing the purchase was in the words of general condition 7 (3) " attributable to default by the vendors in deducing title in accordance with the contract." The vendors contended that it was not, their obligation being to show title at or before completion and, provided they did so, they were not in default. The required appointment would have been duly executed before completion. These contentions failed. A vendor was under an obligation both to show title on the face of the abstract which he delivered and to prove his title by proper evidence. Both these obligations ought to be performed by the vendor well before the day fixed for completion: Williams on Vendor and Purchaser (4th ed., 204). Until the appointment was executed M had no interest in the property. At no time prior to the 20th February, 1946, did a document conferring title on the vendors exist, so no such document could be abstracted before that date. It was no answer to say that, if the purchaser had attended completion, all would have been well. The purchaser would have had no opportunity for the inspection or consideration of the appointment. The concurrence of a mortgagee, who was immediately redeemable, was simply a matter of conveyancing and was not comparable to the due execution of a deed, such as the deed of appointment, which constituted the very title of one of the vendors and without which he had no interest in the property at all. Accordingly, the vendors were in default on and after the 20th February, 1946. The vendors had referred to *Fludyer* v. *Cocker* (1805), 12 Ves. 25; *A.-G.* v. *Dean of Oxford* (1842), 13 Sim. 214, and *Birch* v. *Joy* (1852), 3 H.L. Cas. 565, in support of the proposition that *prima facie* a purchaser in possession was bound to pay interest on any unpaid balance of purchase money and contended that that principle applied, subject only to the fact that, having regard to the deletion of cl. 6 (2) of the general conditions, the purchaser was freed from payment of interest from the time he took possession until the time fixed for completion. In his view he must look to the contract for the elucidation of the problem. The deletion of cl. 6 (2) did not override the purchaser's liability under special condition 3 to pay interest at 5 per cent. from and after the date fixed for completion. The next question was how far the purchaser's liability was modified by general condition 7. Condition 7 (1) was directed to purchasers who did not take possession, for the question of payment of interest by purchasers who did take possession was dealt with by general condition 6 (2). Condition 7 (3) dealt with the case where delay in completion was due to certain specified defaults of the vendor. The question was whether the exemption in that clause operated in favour of the purchaser. In his view sub-cl. (3) was referable to sub-cl. (1) and the words " no interest shall become payable by a purchaser " meant no interest payable by a purchaser under sub-cl. (1) should become payable by a purchaser, viz., by a purchaser not in possession. Accordingly, the purchaser being in possession was not entitled to rely on sub-cl. (3) as freeing him from his liability under special condition 3. This conclusion accorded with the principles which had been accepted as equitable. He would require much clearer language to oust those principles. The vendors were entitled to interest at 5 per cent. on the unpaid purchase money.

COUNSEL: *G. D. Johnstone; C. R. Russell.*
SOLICITORS: *Cliftons; A. C. Warwick & Co.*
[Reported by Miss B. A. BICKNELL, Barrister-at-Law.]

At a statutory general meeting of the Society of Solicitors in the Supreme Courts of Scotland on 3rd June, Mr. W. L. H. Paterson, president, in the chair, the following office-bearers were re-elected: President, Mr. W. L. H. Paterson; vice-president, Mr. James F. Whyte; fiscal, Mr. Neil Watson; librarian, Mr. T. B. Maitland; treasurer and collector, Mr. Robert Gray; secretary, Mr. George Rennie. Messrs. James Hamilton and David Burnett were elected members of council in place of Messrs. T. J. Addly and W. F. Dickson, who retire by rotation.

PARLIAMENTARY NEWS

HOUSE OF LORDS

Read First Time :—
INDUSTRIAL ORGANISATION BILL [H.C.] [4th June.
NOTTINGHAMSHIRE AND DERBYSHIRE TRACTION BILL [H.C.] [5th June.
PRESTON CORPORATION BILL [H.C.] [23rd May.
STATISTICS OF TRADE BILL [H.C.] [23rd May.

Read Second Time :—
NATIONAL SERVICE BILL [H.C.] [3rd June.
TOWN AND COUNTRY PLANNING BILL [H.C.] [5th June.

Read Third Time :—
CITY OF LONDON TITHES BILL [H.L.] [5th June.
SOUTH WEST MIDDLESEX CREMATORIUM BILL [H.L.] [3rd June.
SUNDERLAND CORPORATION BILL [H.L.] [5th June.
TRAFALGAR ESTATES BILL [H.C.] [4th June.

HOUSE OF COMMONS

Read Second Time :—
COMPANIES BILL [H.L.] [6th June.
EDUCATION (EXEMPTIONS) (SCOTLAND) BILL [H.L.] [5th June.

Read Third Time :—
FELIXSTOWE PIER BILL [H.C.] [5th June.
LONDON COUNTY COUNCIL (GENERAL POWERS) BILL [H.C.] [5th June.
LONDON COUNTY COUNCIL (MONEY) BILL [H.C.] [5th June.
LONDON PASSENGER TRANSPORT BILL [H.C.] [5th June.

QUESTIONS TO MINISTERS

RURAL HOUSING RENTS

Mr. BYERS asked the Minister of Health what is regarded as the average rent in rural districts for the purposes of s. 3 (2) of the Housing (Financial and Miscellaneous Provisions) Act, 1946, for the years 1943–44, 1945–46; and the average general rate for rural districts for those years.

Mr. BEVAN: The average rent for these purposes, exclusive of rates, in rural districts in England and Wales is in the neighbourhood of 5s. for each of the years 1943–44 to 1945–46. The averages of the poundages of the general rate levied by rural district councils for those years are 12s. 2d., 12s. 4½d., and 14s. 4½d., respectively. [3rd June.

UNEMPLOYMENT BENEFIT

Mrs. BRADDOCK asked the Minister of National Insurance if he will arrange to pay the new rates of unemployment benefit immediately.

Mr. JAMES GRIFFITHS: As I have already stated in reply to previous similar questions, provision has already been made by regulations for extended benefit on the lines of s. 62 of the National Insurance Act and for the repayment of waiting days under s. 11 of that Act. I do not contemplate that any further provision of the Act relating to unemployment can be introduced in advance of the main insurance scheme especially where, as in this proposal, an increase of contributions would be involved. [3rd June.

CONDITIONS OF SALE

Mr. BESWICK asked the Minister of Food what steps he is taking to enforce the provisions of the Food (Conditions of Sale) Order, which makes it illegal to impose conditions on the sale of foodstuffs.

Mr. STRACHEY: We are much handicapped in enforcing this Order by people's reluctance to give evidence that conditions of sale have been imposed on them. If my hon. friend will give me particulars of specific cases, I shall be glad to have full inquiries made. [4th June.

BRITISH PROPERTY (CLAIMS)

Mr. COLLINS asked the Secretary of State for Foreign Affairs when British subjects, whose property in enemy countries was lost by enemy action, may expect to receive a report as the result of inquiries made by the property control section of the Allied Control Commission; whether the matter of proving their claims is receiving attention; and when they are likely to receive compensation in respect to claims which have been proved and admitted.

Mr. BEVIN: The Property Control Branch of the Allied Control Commission in Germany furnish to British subjects reports on their property in that country in cases where its location, identity and ownership have been brought to notice and are not in doubt or dispute. It is not able at present to undertake to report on property lost or destroyed by enemy action unless

identifiable remnants exist or persons responsible for the property are known, nor is it at present able to trace property removed from its original location. With regard to the second and third parts of the question, I would refer my hon. friend to the reply given to the hon. member for the Isle of Wight (Sir P. Macdonald) on 29th April last. [4th June.

HOUSES FOR SALE

Mr. RONALD CHAMBERLAIN asked the Minister of Health whether in connection with the issue of licences for houses for sale he will again call the attention of local authorities to the requirements that a deduction should be made from the amount of the authorised maximum selling price where street works are subsequently to be carried out.

Mr. BEVAN: The attention of local authorities was again drawn to this requirement in a circular issued on 20th January of this year. [5th June.

WORKMEN'S COMPENSATION CASES

Mr. EWART asked the Minister of National Insurance whether any arrangements have yet been made to include existing cases of workmen's compensation under the Industrial Injuries Scheme after the appointed day.

Mr. J. GRIFFITHS: No. Further legislation would be required to enable this to be done and I cannot, therefore, make any statement about the matter. [6th June.

CHILD CARE

Mr. BATTLEY asked the Secretary of State for the Home Department, the total number of children deprived of normal home lives in England and Wales on 31st March, 1947, or the latest available date; the number of children deprived for the following reasons: death of parents; foundlings; desertion; legitimate and illegitimate; homelessness of parents; immorality of parents; cruelty of parents; inadequate home conditions; and the number of children in which the rights and powers of parents are vested in local authorities.

Mr. EDE: The number of children in England and Wales deprived of a normal home life, exclusive of delinquent and physically or mentally handicapped children, is estimated to have been about 94,000 on 1st May, 1946. This figure includes children who may have been only temporarily separated from their families. As regards the last part of the question, approximately 8,000 children are committed to the care of local authorities under the Children and Young Persons Act. Figures are not available to show in how many cases the rights and powers of parents vest in local authorities by resolution of the council under s. 52 of the Poor Law Act, 1930. I regret that it is not possible to furnish the remainder of the information requested by my hon. friend. [6th June.

OBITUARY

SIR ALEXANDER ERSKINE-HILL, BT., K.C.

Sir Alexander Galloway Erskine-Hill, Bt., K.C., died on 6th June, aged 53. Called to the English Bar by Lincoln's Inn in 1920, and to the Scottish Bar in the same year, he became a Scottish K.C. in 1935.

MR. H. N. FFARINGTON

Mr. Henry Nowell ffarington, solicitor, died on 31st May, aged 79. He was admitted in 1901.

MR. T. W. FRY, O.B.E.

Mr. Theodore Wilfred Fry, O.B.E., formerly a Metropolitan Police Magistrate, died on 1st June, aged 79. He was called by the Inner Temple in 1893 and became stipendiary magistrate for Middlesbrough-on-Tees in 1908. In 1920 he was appointed a Metropolitan Police Magistrate at Tower Bridge, transferring to Bow Street in 1926, where he remained until his retirement in 1941.

MR. A. G. HOLLINSHEAD

The death has taken place in Dublin of Mr. A. G. Hollinshead, who was Official Assignee in Bankruptcy from 1910 until his retirement some twelve years ago. During the first world war he also held the position of Custodian of Enemy Property in Ireland.

RULES AND ORDERS

1947 No. 1098

WAR DAMAGE

GOODS

THE WAR DAMAGE TO GOODS (PRIVATE CHATTELS) REGULATIONS, 1947, DATED JUNE 4, 1947, MADE BY THE TREASURY UNDER SECTIONS 85, 95 AND 115 OF THE WAR DAMAGE ACT, 1943 (6 & 7 GEO. 6. c. 21).

The Lords Commissioners of His Majesty's Treasury, in pursuance of the powers conferred upon them by sections eighty-five, ninety-five and one hundred and fifteen of the War Damage Act, 1943, and of all other powers enabling them in that behalf hereby make the following Regulations:—

1. *Short title and interpretation.*]—(1) These Regulations may be cited as the War Damage to Goods (Private Chattels) Regulations, 1947.

(2) The Interpretation Act, 1889, applies for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

Supplementary Payments

2. *Supplementary payments in respect of damage to private chattels before* 1942.]—(1) In addition to any payment made under the private chattels scheme or Regulation 1 or Regulation 2 of the War Damage to Goods (General) Regulations, 1943,* and notwithstanding anything in any policy issued under the said scheme, the said Regulation 1 or Regulation 8 of the said Regulations, the Board of Trade may, subject to and in accordance with the provisions of these Regulations, make by virtue of the said Section ninety-five payments to a person who has duly made a claim in respect of war damage occurring on any occasion during the period beginning with the third day of September, nineteen hundred and thirty-nine and ending with the thirty-first day of December, nineteen hundred and forty-one to goods which, when the damage occurred, were insurable in relation to him under the private chattels scheme, if payment of the total sum recoverable under the policy in question or payable under the Regulation in question in respect of the damage occurring on that occasion was not made on or before the thirty-first day of December, nineteen hundred and forty-one.

(2) References in these Regulations to goods insurable at any time under the private chattels scheme shall be construed as including references—

(*a*) to goods which would have been so insurable if that scheme had been in force at that time;

(*b*) to goods which by virtue of section ninety-three of the War Damage Act, 1943, the Board of Trade treat as so insurable, or as goods which would have been so insurable if that scheme had been in force at that time.

3. *Amounts of payments.*]—(1) The amount of the payment under the last foregoing Regulation to be made to a person in respect of war damage occurring on any occasion to goods insurable in relation to him under the private chattels scheme shall not exceed an amount calculated by reference to the total sum recoverable under the policy in question, or payable under the Regulation in question in respect of the damage occurring on that occasion, as follows:—

(*a*) when the said total sum exceeds £25 but does not exceed £350, an amount equal to 50 per cent. of that total sum;

(*b*) when the said total sum exceeds £350 but does not exceed £762 10s., the sum of £175;

(*c*) when the said total sum exceeds £762 10s. but does not exceed £1,200, an amount equal to 40 per cent. of the difference between the said total sum and £1,200.

(2) No payment under the last foregoing Regulation shall be made in respect of war damage to goods insurable under the private chattels scheme which appears to the Board of Trade to have occurred on any occasion if the total amount recoverable under the policy in question or payable under the Regulation in question in respect of the damage occurring on that occasion does not exceed £25 or exceeds £1,200.

4. *Incidental provisions.*]—(1) Subject to the provisions of this Regulation, Regulations eleven to sixteen of the War Damage to Goods (General) Regulations, 1943* (which contain incidental provisions relating to payments under those Regulations), shall apply to payments under Regulation two of these Regulations as they apply to payments under those Regulations.

(2) Regulation twelve of the said Regulations of 1943 (as it applies to these Regulations) shall not compel the Board of Trade to disregard any assignment of the expectation of any payment under Regulation two of these Regulations if the Board have approved the assignment in writing in so far as it relates to the right to a payment under a policy issued under the private chattels scheme or to the expectation of any payment under the said Regulations of 1943.

Time for payments of losses in respect of goods insurable under the private chattels scheme.

5. The time at which payments may be made by the Board of Trade under the private chattels scheme, under Regulation two of the War Damage to Goods (General) Regulations, 1943,* under Regulation two of the War Damage to Goods (General) Regulations, 1945,† in so far as that Regulation relates to goods insurable under the private chattels scheme, and under Regulation two of these Regulations shall commence on the fourteenth day of July nineteen hundred and forty-seven.

Dated this fourth day of June, 1947.

C. James Simmons,
Joseph Henderson,
Two of the Lords Commissioners of His Majesty's Treasury.

* S.R. & O. 1943 (No. 209) I, p. 982. † S.R. & O. 1945 (No. 855) I, p. 1405.

Wills and Bequests

Mr. F. H. E. BRANSON, solicitor, of Basingstoke, left £72,451.

Mr. E. CLAPHAM, solicitor, of Guiseley, left £35,609, with net personalty £33,553. He left £10 to each clerk in his employ at the date of his death and not under notice.

NOTES AND NEWS

Honours and Appointments

Major L. E. CURRAN has been appointed Attorney-General for Northern Ireland in succession to Mr. William Lowry, who has been elevated to the Bench of the High Court in Belfast.

Mr. C. A. FELL, solicitor, has been elected to the Common Council of the City of London. Mr. Fell was admitted in 1920.

Mr. MILES BEEVOR has been appointed Acting Chief General Manager of the L.N.E.R. He was admitted in 1925 and has been chief legal adviser to the L.N.E.R. since 1943.

Notes

Out of 298 candidates at the Trinity Bar Final Examination, 141 passed and 32 obtained conditional passes.

The Treasurers and Masters of the Bench of Lincoln's Inn, Inner Temple, Middle Temple and Gray's Inn held a reception on 6th June at Lincoln's Inn in honour of the members of the Anglo-French Legal Conference convened by The Law Society.

An ordinary meeting of the Medico-Legal Society will be held at Manson House, 26 Portland Place, W.1 (Tel. LANgham 2127), on Thursday, 26th June, 1947, at 8.15 p.m., when a paper will be read by the president on "Psychiatry and Degrees of Murder."

The following twenty-four members of the Bar have been duly declared elected members of the General Council of the Bar to fill the twenty-four vacancies upon the Council. They are in their order of seniority at the Bar: Mr. H. A. H. Christie, K.C.; Mr. Richard O'Sullivan, K.C.; Mr. G. Russell Vick, K.C.; Sir Cyril Radcliffe, K.C.; Mr. J. D. Caswell, K.C.; Mr. P. R. Barry, K.C.; Mr. C. R. Havers, K.C.; Mr. Andrew E. J. Clark, K.C.; Mr. A. D. Gerrard, K.C.; Mr. Aiken Watson, K.C.; Mr. W. F. Waite; Mr. R. T. Monier-Williams; Mr. C. G. L. Du Cann; Mrs. Helena Normanton; Mr. James Macmillan; Mr. E. Milner-Holland, C.B.E.; Mr. D. H. Robson; Mr. B. S. Wingate-Saul; Mr. G. G. Baker, O.B.E.; Mr. C. D. Aarvold; Mr. E. Brian Gibbens; Lord Mancroft, M.B.E.; Mr. R. B. Verdin; Mr. John Gross.

RECENT LEGISLATION

STATUTORY RULES AND ORDERS, 1947

No. 1067. **Air Navigation Act** (Commencement) Order. May 21.
No. 1050. **Export of Goods** (Control) (Amendment) (No. 2) Order. May 23.
No. 1059. **Hatfield Town and Country Planning** (Special Interim Development) Order. May 30.
No. 1058. **Regulation of Payments** (Brazil) Order. May 29.
No. 1026. **Superannuation** (Public Offices) Rules Amendment Rule. May 22.
No. 1031. **Trading with the Enemy** (Authorisation) (Japan) Order. May 28.
No. 1033. Trading with the Enemy (Custodian) (Amendment) (Japan) Order. May 28.
No. 1032. Trading with the Enemy (Transfer of Negotiable Instruments, etc.) (Japan) Order. May 28.
No. 1057. **Use of Vehicles during Harvesting** Order. May 27.

[Any of the above may be obtained from the Publishing Department, S.L.S.S., Ltd., 88/90, Chancery Lane, London, W.C.2.]

COURT PAPERS

SUPREME COURT OF JUDICATURE

COURT OF APPEAL AND HIGH COURT OF JUSTICE—CHANCERY DIVISION

TRINITY SITTINGS, 1947

ROTA OF REGISTRARS IN ATTENDANCE ON

Date	Emergency Rota	Appeal Court I	Mr. Justice Vaisey
Mon., June 16	Mr. Farr	Mr. Reader	Mr. Hay
Tues., ,, 17	Blaker	Hay	Farr
Wed., ,, 18	Andrews	Farr	Blaker
Thurs., ,, 19	Jones	Blaker	Andrews
Fri., ,, 20	Reader	Andrews	Jones
Sat., ,, 21	Hay	Jones	Reader

	Group A		Group B	
Date	Mr. Justice Roxburgh *Witness*	Mr. Justice Wynn Parry *Non-Witness*	Mr. Justice Romer *Witness*	Mr. Justice Jenkins *Non-Witness*
Mon., June 16	Mr. Andrews	Mr. Jones	Mr. Farr	Mr. Blaker
Tues., ,, 17	Jones	Reader	Blaker	Andrews
Wed., ,, 18	Reader	Hay	Andrews	Jones
Thurs., ,, 19	Hay	Farr	Jones	Reader
Fri., ,, 20	Farr	Blaker	Reader	Hay
Sat., ,, 21	Blaker	Andrews	Hay	Farr

STOCK EXCHANGE PRICES OF CERTAIN TRUSTEE SECURITIES

Bank Rate (26th October, 1939) 2%

	Div. Months	Middle Price June 9 1947	Flat Interest Yield £ s. d.	‡ Approximate Yield with redemption £ s. d.
British Government Securities				
Consols 4% 1957 or after	FA	115	3 9 7	2 3 0
Consols 2½%	JAJO	94½xd	2 12 11	—
War Loan 3% 1955–59	AO	106½	2 16 4	2 1 11
War Loan 3½% 1952 or after	JD	106	3 6 0	2 6 0
Funding 4% Loan 1960–90	MN	118½	3 7 6	2 6 7
Funding 3% Loan 1959–69	AO	107	2 16 1	2 6 5
Funding 2½% Loan 1952–57	JD	104	2 12 11	1 17 10
Funding 2½% Loan 1956–61	AO	103	2 8 7	2 2 4
Victory 4% Loan Av. life 18 years	MS	120½	3 6 5	2 11 2
Conversion 3½% Loan 1961 or after	AO	112½	3 2 3	2 8 9
National Defence Loan 3% 1954–58	JJ	105½xd	2 16 10	2 0 4
National War Bonds 2½% 1952–54	MS	103¼	2 8 5	1 16 11
Savings Bonds 3% 1955–65	FA	106½	2 16 4	2 0 9
Savings Bonds 3% 1960–70	MS	107	2 16 1	2 7 3
Treasury 3%, 1966 or after	AO	106½	2 16 4	2 11 3
Treasury 2½%, 1975 or after	AO	95½	2 12 4	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	101½xd	2 19 1	—
Guaranteed 2½% Stock (Irish Land Act, 1903)	JJ	101½xd	2 14 2	—
Redemption 3% 1986–96	AO	112½	2 13 4	2 9 8
Sudan 4½% 1939–73 Av. life 16 years	FA	121	3 14 5	2 16 11
Sudan 4% 1974 Red. in part after 1950	MN	115½	3 9 3	—
Tanganyika 4% Guaranteed 1951–71	FA	106½	3 15 1	2 0 3
Lon. Elec. T.F. Corp. 2½% 1950–55	FA	101½	2 9 3	—
Colonial Securities				
*Australia (Commonw'h) 4% 1955–70	JJ	110½	3 12 5	2 8 9
Australia (Commonw'h) 3½% 1964–74	JJ	109½	2 19 4	2 10 11
*Australia (Commonw'h) 3% 1955–58	AO	105	2 17 2	2 6 2
†Nigeria 4% 1963	AO	120	3 6 8	2 9 6
*Queensland 3½% 1950–70	JJ	103xd	3 8 0	—
Southern Rhodesia 3½% 1961–66	JJ	113½	3 1 8	2 7 2
Trinidad 3% 1965–70	AO	108	2 15 7	2 8 5
Corporation Stocks				
*Birmingham 3% 1947 or after	JJ	100xd	3 0 0	—
*Leeds 3½% 1958–62	JJ	106xd	3 1 3	2 12 0
*Liverpool 3% 1954–64	MN	105	2 17 2	2 4 3
Liverpool 3½% Red'mable by agreement with holders or by purchase	JAJO	120	2 18 4	—
London County 3% Con. Stock after 1920 at option of Corporation	MSJD	101½	2 19 1	—
*London County 3½% 1954–59	FA	110	3 3 8	1 19 8
*Manchester 3% 1941 or after	FA	101	2 19 5	—
*Manchester 3% 1958–63	AO	105	2 17 2	2 8 7
Met. Water Board "A" 1963–2003	AO	103½	2 18 0	2 14 7
* Do. do. 3% "B" 1934–2003	MS	102	2 18 10	—
* Do. do. 3% "E" 1953–73	JJ	104	2 17 8	2 4 2
Middlesex C.C. 3% 1961–66	MS	106	2 16 7	2 9 10
*Newcastle 3% Consolidated 1957	MS	105	2 17 2	2 8 0
Nottingham 3% Irredeemable	MN	107	2 16 1	—
Sheffield Corporation 3½% 1968	JJ	116	3 0 4	2 10 7
Railway Debenture and Preference Stocks				
Gt. Western Rly. 4% Debenture	JJ	122½	3 5 4	—
Gt. Western Rly. 4½% Debenture	JJ	125½	3 11 9	—
Gt. Western Rly. 5% Debenture	JJ	136½	3 13 3	—
Gt. Western Rly. 5% Rent Charge	FA	133½	3 14 11	—
Gt. Western Rly. 5% Cons. G'rteed.	MA	130½	3 16 8	—
Gt. Western Rly. 5% Preference	MA	118½	4 4 5	—

* Not available to Trustees over par.
† Not available to Trustees over 115.
‡ In the case of Stocks at a premium, the yield with redemption has been calculated at the earliest date; in the case of other Stocks, as at the latest date.

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